

CHAPTER 9

STUDENT LOANS: PROCEDURES AND POLICIES

Authority

N.J.S.A. 18A:72-10.

Source and Effective Date

R.1993 d.441, effective August 16, 1993.
See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

Executive Order No. 66(1978) Expiration Date

Chapter 9, Student Loans: Procedures and Policies, expires on August 16, 1998.

Chapter Historical Note

All provisions of this chapter became effective prior to September 1, 1969.

1973 Revisions: Amendments became effective March 22, 1973 as R.1973 d.77. See: 5 N.J.R. 107(d).

1976 Revisions: Amendments became effective December 7, 1976 as R.1976 d.385. See: 9 N.J.R. 18(e).

1977 Revisions: Amendments became effective July 18, 1977 as R.1977 d.249. See: 9 N.J.R. 366(d). Further amendments became effective September 20, 1977 as R.1977 d.353. See: 9 N.J.R. 468(a).

1978 Revisions: Amendments became effective June 16, 1978 as R.1978 d.198. See: 10 N.J.R. 13(a), 10 N.J.R. 281(b). Further amendments became effective September 18, 1978 as R.1978 d.329. See: 10 N.J.R. 281(a), 10 N.J.R. 431(a).

1979 Revisions: Amendments became effective October 11, 1979 as R.1979 d.401. See: 11 N.J.R. 342(b), 11 N.J.R. 551(c).

1980 Revisions: Amendments became effective July 30, 1980 as R.1980 d.339. See: 12 N.J.R. 520(a).

1981 Revisions: Amendments became effective August 6, 1981 (to become operative September 8, 1981). See: 13 N.J.R. 219(a), as corrected in the Notice published at 13 N.J.R. 355(a), 13 N.J.R. 496(b).

1983 Revisions: This chapter was readopted pursuant to Executive Order No. 66(1978) effective September 8, 1983 with amendments and recodification thereto effective October 3, 1983, as R.1983 d.413. See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

1984 Revisions: Amendments became effective January 3, 1984 as R.1983 d.605. See: 15 N.J.R. 1820(a), 16 N.J.R. 49(a). Subchapter 10 became effective January 17, 1984 as R.1983 d.647. See: 15 N.J.R. 1336(b), 16 N.J.R. 143(a). Further amendments became effective May 7, 1984 as R.1984 d.153. See: 16 N.J.R. 203(a), 16 N.J.R. 1094(b).

1985 Revisions: Amendments became effective June 17, 1985 as R.1985 d.311. See: 16 N.J.R. 3281(b), 17 N.J.R. 1564(a). Further amendments became effective November 4, 1985 as R.1985 d.568. See: 17 N.J.R. 1518(a), 17 N.J.R. 2648(a).

1986 Revisions: Amendments became effective April 7, 1986 as R.1986 d.102. See: 17 N.J.R. 2727(a), 18 N.J.R. 681(a).

1987 Revisions: Amendments became effective November 16, 1987 as R.1987 d.456. See: 19 N.J.R. 498(b), 19 N.J.R. 2187(a).

1988 Revisions: Amendments became effective March 21, 1988 as R.1988 d.116. See: 19 N.J.R. 1619(a), 20 N.J.R. 663(b). Subchapter 11 became effective July 18, 1988 as R.1988 d.334. See: 20 N.J.R. 872(a), 20 N.J.R. 1712(a). This chapter was readopted pursuant to Executive Order No. 66(1978) effective September 12, 1988 with

amendments effective October 3, 1988, as R.1988 d.478. See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b). Further amendments became effective October 3, 1988 as R.1988 d.477. See: 20 N.J.R. 1641(a), 20 N.J.R. 2456(a). Subchapter 7, Policy Governing New Jersey College Loans to Assist State Students (NJCLASS) Program, was adopted as R.1991 d.396, effective August 5, 1991. See: 23 N.J.R. 1257(a), 23 N.J.R. 2338(b).

Pursuant to Executive Order No. 66(1978), Chapter 9 was readopted as R.1993 d.441. See: Source and Effect Date. See, also, section annotations for specific rulemaking activity.

CHAPTER TABLE OF CONTENTS

**SUBCHAPTER 1. STUDENT LOAN PROGRAM—
POLICIES AND PROCEDURES**

- 9:9-1.1 Definitions
- 9:9-1.2 Loan amounts
- 9:9-1.3 Use of funds
- 9:9-1.4 (Reserved)
- 9:9-1.5 Change of lenders
- 9:9-1.6 Insurance and origination fees
- 9:9-1.7 Authority action
- 9:9-1.8 Securing the note
- 9:9-1.9 Disbursement procedures
- 9:9-1.10 Change of school before disbursement
- 9:9-1.11 Interest
- 9:9-1.12 Repayment of loan; installment arrangements
- 9:9-1.13 Delinquent payments; responsibility of lender
- 9:9-1.14 Late charges
- 9:9-1.15 Notification of bankruptcy proceedings
- 9:9-1.16 Procedure for filing claim
- 9:9-1.17 (Reserved)
- 9:9-1.18 Certification of loans outstanding
- 9:9-1.19 Certification of student enrollment in school
- 9:9-1.20 Reports
- 9:9-1.21 Notification of paid or cancelled loans
- 9:9-1.22 Records and access requirements
- 9:9-1.23 Procedures: reporting loan status to credit bureaus
- 9:9-1.24 through 9:9-1.38 (Reserved)

**SUBCHAPTER 2. FEDERAL FAMILY EDUCATION
LOAN PROGRAM STATUTES AND
REGULATIONS**

- 9:9-2.1 Rules and statutes incorporated by reference

**SUBCHAPTER 3. POLICY GOVERNING FEDERAL
PLUS AND FEDERAL SUPPLEMENTAL LOANS
FOR STUDENTS (SLS) LOAN PROGRAMS**

- 9:9-3.1 Rules and statutes incorporated by reference
- 9:9-3.2 Eligibility
- 9:9-3.3 Insurance fee and origination fee
- 9:9-3.4 Disbursement
- 9:9-3.5 Interest
- 9:9-3.6 Capitalization of accrued interest

**SUBCHAPTER 4. POLICY GOVERNING DIRECT
GUARANTEED STUDENT LOANS (GSL)**

- 9:9-4.1 Qualifications for eligibility
- 9:9-4.2 Loan amount
- 9:9-4.3 Terms of loan
- 9:9-4.4 Repayment

**SUBCHAPTER 5. POLICY GOVERNING GRADUATE
INSURED LOANS**

- 9:9-5.1 Qualifications for eligibility
- 9:9-5.2 Loan amount

- 9:9-5.3 Terms of loan
- 9:9-5.4 Repayment

SUBCHAPTER 6. SALE, CONSOLIDATION AND REFINANCING OF LOAN

- 9:9-6.1 Eligible lenders
- 9:9-6.2 Written notification of transfer/refinance
- 9:9-6.3 (Reserved)
- 9:9-6.4 Consolidation loans
- 9:9-6.5 Refinancing to secure combined payment
- 9:9-6.6 Refinancing to secure a variable interest rate
- 9:9-6.7 Refinancing by discharge of previous loan
- 9:9-6.8 Refinancing ineligibility
- 9:9-6.9 Rules and statutes incorporated by reference

SUBCHAPTER 7. POLICY GOVERNING NEW JERSEY COLLEGE LOANS TO ASSIST STATE STUDENTS (NJCLASS) PROGRAM

- 9:9-7.1 Definitions
- 9:9-7.2 Eligibility
- 9:9-7.3 Loan amounts
- 9:9-7.4 Application procedure
- 9:9-7.5 Fees
- 9:9-7.6 Interest
- 9:9-7.7 Repayment of loan
- 9:9-7.8 Deferments and forbearance
- 9:9-7.9 Default

SUBCHAPTER 8. POLICY GOVERNING NEW JERSEY BETTER EDUCATIONAL SAVINGS TRUST (NJBEST) PROGRAM

- 9:9-8.1 Purpose
- 9:9-8.2 Scope
- 9:9-8.3 Definitions
- 9:9-8.4 Procedure for opening an account
- 9:9-8.5 Contributions
- 9:9-8.6 Cancellations and withdrawals
- 9:9-8.7 Procedures for changes in designated beneficiary and rollovers
- 9:9-8.8 Fees and charges
- 9:9-8.9 Penalty for nonqualified withdrawals
- 9:9-8.10 Statements, reports on distributions, information returns
- 9:9-8.11 Exclusion from New Jersey gross income
- 9:9-8.12 Eligibility for NJBEST scholarship
- 9:9-8.13 Amount excluded from State need-based financial aid eligibility
- 9:9-8.14 Statement on contracts and applications
- 9:9-8.15 Selection of investment manager
- 9:9-8.16 Investment by private entity
- 9:9-8.17 Certain limitations

SUBCHAPTER 9. POLICY GOVERNING DIRECT PLUS/SLS LOANS

- 9:9-9.1 Qualifications for eligibility
- 9:9-9.2 Loan prerequisites
- 9:9-9.3 Loan amount
- 9:9-9.4 Application procedure; applicant
- 9:9-9.5 Interest rates
- 9:9-9.6 Repayment
- 9:9-9.7 Deferment of payment

SUBCHAPTER 10. (RESERVED)

SUBCHAPTER 11. POLICY GOVERNING EDUCATIONAL INSTITUTION COMPLIANCE WITH THE STAFFORD LOAN PROGRAM; CORRECTIVE MEASURES

- 9:9-11.1 Standards
- 9:9-11.2 Audit procedures
- 9:9-11.3 Sanctions
- 9:9-11.4 Appeal procedure

SUBCHAPTER 1. STUDENT LOAN PROGRAM—POLICIES AND PROCEDURES

9:9-1.1 Definitions

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

“Default” means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the United States Secretary of Education or guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments.

“Delinquency” means the failure of the borrower to make a payment when due. Delinquency begins the day after a payment is due and continues for a period up until the loan meets the definition of default.

“Federal Family Education Loan program” shall mean the Federal Stafford Loan, Federal Supplemental Loans for Students, Federal PLUS Loan, and Federal Consolidation Loan program.

“Federal PLUS Loan” is a loan program targeted for parents of dependent undergraduate students. Formerly known as PLUS Loans, all Federal PLUS Loans were made on or after July 23, 1992.

“Federal SLS Loan” is a loan program targeted for independent undergraduate students, graduate students, and dependent undergraduates whose parents are unable to procure a Federal PLUS Loan. Formerly known as SLS loans, all Federal SLS loans were made on or after July 23, 1992.

“Federal Stafford Loan” is a loan program which includes Stafford Loans and Unsubsidized Federal Stafford Loans for Middle-Income Borrowers.

“Foreign school” is a school not located in the United States.

“PLUS” was a loan program which was targeted for parents of dependent undergraduate or graduate students. All PLUS loans were made before July 23, 1992.

“Servicer” means a third party with whom the lender/holder has entered into a contract, through assignment, transfer or sale, to handle specific aspects on student loans on the lender/holder’s behalf in accordance with the Federal Family Education Loan program regulations.

"SLS" was a loan program targeted for independent undergraduate students, graduate students, and dependent undergraduate students whose parents were unable to procure a PLUS loan. All SLS loans were made before July 23, 1992.

As amended, R.1973 d.77, effective March 22, 1973.

See: 5 N.J.R. 107(d).

As amended, R.1977 d.353, effective September 20, 1977.

See: 9 N.J.R. 468(a).

As amended, R.1978 d.198, effective June 16, 1978.

See: 10 N.J.R. 13(a), 10 N.J.R. 281(b).

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Substantially amended definitions.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substantially amended.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.2 Loan amounts

(a) Annual and aggregate loan amounts that may be borrowed shall be in accordance with 34 C.F.R. 682.204.

(b) No student shall be permitted to borrow a second time for the same stated grade level in school, as indicated on the previous loan application, if the request is the result of either academic failure or the failure to complete a full-time course load for the stated grade level at the institution attended; provided, however, that the Authority shall have the discretion to permit borrowing a second time for the same grade level in school when, at the discretion of the Authority, the borrower's request for repetitive funding is substantially based upon circumstances which were beyond his or her immediate control.

As amended, R.1973 d.77, effective March 22, 1973.

See: 5 N.J.R. 107(d).

As amended, R.1976 d.385, effective December 7, 1976.

See: 9 N.J.R. 18(e).

As amended, R.1977 d.249, effective July 18, 1977.

See: 9 N.J.R. 366(d).

As amended, R.1977 d.353, effective September 20, 1977.

See: 9 N.J.R. 468(a).

As amended, R.1981 d.275, effective August 6, 1981 (to become operative September 8, 1981).

See: 13 N.J.R. 219(a), as corrected in the Notice published at 13 N.J.R. 355(a); 13 N.J.R. 496(b).

(a): "for a dependent student ... independent student" added.

(b): Delete exceptions to \$5,000 maximum borrowing limit.

(c): After "\$1,250" delete "for undergraduate study or \$2,500 for graduate study" and substitute "for the dependent ... graduate student."

(d): Delete \$7,500 maximum loan for undergraduates and \$15,000 for graduate study and substitute \$12,500 ... borrowed under this program as an undergraduate student."

(e): "\$25,000" was "\$15,000".

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.3 and substantially amended. Old 9:9-1.2, concerning eligibility repealed.

As amended, R.1984 d.153, effective May 7, 1984.

See: 16 N.J.R. 203(a), 16 N.J.R. 1094(b).

Old text deleted, new text inserted.

Amended by R.1985 d.568, effective November 4, 1985.

See: 17 N.J.R. 1518(a), 17 N.J.R. 2648(a).

Substantially amended.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substituted "stated" for "state".

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.3 Use of funds

Funds may not be used to retire prior indebtedness.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.4 and substantially amended.

9:9-1.4 (Reserved)

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.8. Old 9:9-1.4 concerning use of funds now codified as new 9:9-1.3.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Section was "Junior year abroad".

9:9-1.5 Change of lenders

(a) A student should obtain all loans from the same lender. If the student is unable to do so, the student must notify the Authority in writing of a change of lenders.

(b) The Authority, as required by Federal regulation, will make every reasonable effort to ensure that the borrower's loans are obtained and maintained from the same lender, holder, guaranty agency, and servicer to eliminate the need for multiple contacts with the borrower. If the borrower is unable to obtain loans from the same lender, alternative application processing will be available from the Authority and lenders for the borrower.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.10 and added last sentence. Old 9:9-15 concerning time for filing applications repealed.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Deleted text "If a student ..." and inserted text "If the student ...".

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.6 Insurance and origination fees

(a) An applicant for a student loan must:

1. Pay an insurance fee of one percent of the principal balance of the loan in accordance with 34 C.F.R. 682.202. Any adjustments or refunds shall be made by the lender or the Authority. The fee is only charged upon disbursement; however, the fee is not charged twice if the student changes schools within the same academic year;

2. Pay an origination fee based upon a rate assigned by Federal guidelines, in accordance with 34 C.F.R. 682.202, on the principal amount of the loan. Refunds shall be made by the lender in accordance with promulgated Federal guidelines.

(b) The above fees may be directly deducted from the proceeds of the loan prior to disbursement by the lender or paid to the lender prior to processing.

(c) No educational institution may charge an applicant a fee for processing an application for a Federal Family Education Loan.

(d) For Unsubsidized Federal Stafford Loans for Middle-Income Borrowers, applicants must pay a combined origination fee and insurance premium to the Federal government,

based upon a rate outlined in 34 C.F.R. 682.202, on the principal amount of the loan.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.11 and substantially amended.

Old 9:9-1.6 concerning charge of school repealed.

As amended by R.1985 d.311, effective June 17, 1985.

See: 16 N.J.R. 3281(b), 17 N.J.R. 1564(a).

(b) added.

Amended by R.1986 d.102, effective April 7, 1986.

See: 17 N.J.R. 2727(a), 18 N.J.R. 681(a).

Deleted text "No refunds will be issued after the application has been approved by the Authority." Substituted "disbursement" for "approval".

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substantially amended.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.7 Authority action

Upon approval of the loan application, the lending institution will receive the student loan Guarantee Notice/Disclosure Statement. This is the lender's guarantee and authorization to disburse the funds and must then be attached to the application/note or otherwise maintained. Notification of guarantee will be sent to the student and the school at the same time.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.15 and amended.

Old 9:9-1.7 concerning loss of institutional eligibility status repealed.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substituted Guarantee Notice/Disclosure Statement for interim promissory note.

9:9-1.8 Securing the note

Prior to approval of the loan, the lender must secure the student's signature on the application/note. The forms provided by the Authority must be used in all cases except when prior approval by the Authority has been given to the lender's form. Lenders shall adhere to the provisions outlined in 34 C.F.R. 682.206.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.19 and amended.

Old 9:9-1.8 concerning junior year abroad now codified as new 9:9-1.4.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Deleted (b).

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.9 Disbursement procedures

(a) The disbursement of funds shall be made by a check made jointly payable to the borrower and the school and must be sent directly to the school by the lender, or by means of electronic funds transfer, and in accordance with Federal regulation 34 C.F.R. 682.207.

(b) At or before the disbursement of funds, the lender shall provide the borrower with a disclosure statement and other borrower information required by Federal regulations.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.22.

As amended, R.1983, d.605, effective January 3, 1984.

See: 15 N.J.R. 1820(a), 16 N.J.R. 49(a).

Added new (a).

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Deleted old (b); added new (b) through (d).

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.10 Change of school before disbursement

If, prior to disbursement of funds, the applicant indicates he or she will be attending a school other than the one indicated on the application he or she must notify the lender orally or in writing to cancel the loan application. The loan is not transferable from school to school. Another application for the new school must be completed. No insurance fee will be charged if amounts remain the same.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.23 and amended.

Old 9:9-1.10 concerning change of lenders now codified as new 9:9-1.5.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Added "she".

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.11 Interest

Lenders may charge, calculate or accept payment of interest in accordance with Federal regulation 34 C.F.R. 682.202.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.25 and substantially amended.

Old 9:9-1.11 concerning application procedure, applicant now codified as new 9:9-1.16 and amended to read insurance and organization fees.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

(a) Deleted text "in accordance with";

(b) Deleted text "On all loans made subsequent to September 30, 1982";

(c) Substituted "borrower" for "student".

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.12 Repayment of loan; installment arrangements

Repayment of all student loans must be in accordance with Federal regulation 34 C.F.R. 682.209.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.27 and substantially amended.

Old 9:9-1.12 concerning application procedure; lender repealed.

Amended by R.1988 d.116, effective March 21, 1988.

See: 19 N.J.R. 1619(a), 20 N.J.R. 663(b).

Deleted text "At this time ...".

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substituted "borrower" for "student" and added text "prior to the expiration of the grace period".

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.13 Delinquent payments; responsibility of lender

When an account becomes delinquent as a result of nonpayment of an installment when due or failure to return funds due to non-enrollment in school, the Authority must be notified of such an event at the time of occurrence and the lender must follow the provisions of Federal regulation 34 C.F.R. 682.410.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.29 and amended.

Old 9:9-1.13 concerning authority repealed.

Amended by R.1988 d.116, effective March 21, 1988.

See: 19 N.J.R. 1619(a), 20 N.J.R. 663(b).

Deleted text "failure to convert when due,".

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Deleted text "either through a ... or other correspondence".

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.14 Late charges

Except where authorized by Federal regulation 34 C.F.R. 682.202, late charges are not permitted on any notes which compute simple interest on a daily basis.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.13 and old text deleted and new text added.

Old 9:9-1.14 concerning notification of approval repealed.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.15 Notification of bankruptcy proceedings

In the event the lender is notified of any bankruptcy proceedings against the borrower subsequent to purchase of the defaulted loan by the Authority, the lender shall be responsible for filing a bankruptcy claim with the guarantee agency within 30 days of the date the lender determines that collection has been stayed.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.32 and substantially amended.

Old 9:9-1.15 concerning authority action now codified as 9:9-1.7.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substantially amended.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.16 Procedure for filing claim

(a) With loans defined as being in a default status, a claim form provided by NJHEAA may be submitted upon expiration of the required default time period as set forth in

Federal regulations provided the lender has been in compliance with all Federal and State due diligence regulations.

(b) More than one loan, of the same type, may be combined on one claim form as long as the interest rate is the same. The lender will be reimbursed for the total unpaid principal and interest due for a period not to exceed 90 days beyond the date of default. The original note(s), properly assigned to the Authority, must be forwarded with the claims. By law, the Authority may not reimburse the lender for late charges.

As amended, R. 1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.33 and amended.

Old 9:9-1.16 governing guaranty repealed.

Amended by R.1988 d.101, effective April 7, 1986.

See: 17 N.J.R. 2728(a), 18 N.J.R. 682(a).

Deleted text "not to exceed ... on converted accounts" and substituted "for a period ... and installment accounts."

Amended by R.1988 d.116, effective March 21, 1988.

See: 19 N.J.R. 1619(a), 20 N.J.R. 663(b).

Deleted text "on both non-converted and installment accounts".

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substantially amended.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.17 (Reserved)

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.34 and amended.

Old 9:9-1.17 concerning time limit on disbursement repealed.

Repealed by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Section was "Assignment of note".

9:9-1.18 Certification of loans outstanding

At least annually, a list of loans outstanding will be sent to each lending institution. This list shall be checked against the lender's records and returned within 60 days with necessary corrections. Loans which have been cancelled, paid in full, reduced in amount, currently on installment or on deferment shall be noted and documented.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.35 and amended. Old 9:9-1.18 concerning time and method of disbursement repealed.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substituted "At least annually" for "periodically" and "shall" for "should".

9:9-1.19 Certification of student enrollment in school

If a lender suspects a student is no longer attending the institution stated on the most recent application, steps shall be taken immediately by the lender to verify this data in the following manner. The lender shall communicate with the student requesting written evidence of current status from the school and shall simultaneously notify the Authority.

Amended by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.36 and amended.

Old 9:9-1.19 recodified at 9:9-1.8.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substituted "shall" for "should"; deleted text "if it is suspected ...".

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.20 Reports

The lender will be responsible for prompt completion of such reports as may be required from time to time by either the Authority or the Federal government.

Amended by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.37.

Old 9:9-1.20 concerning certifying application for interest subsidy repealed.

9:9-1.21 Notification of paid or cancelled loans

Lenders must return immediately to the Authority a copy of the application and/or the promissory note appropriately marked in a clear fashion when the loan is either paid in full or cancelled.

Amended by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-1.38 and amended.

Old 9:9-1.21 concerning preparing check repealed.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substantially amended.

9:9-1.22 Records and access requirements

Each participating lender/servicer shall maintain records, and allow NJHEAA (the Authority), the Secretary (USDE), and the Secretary's designee access to those records, as outlined in 34 C.F.R. 682.414(a)(3).

Amended by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Old 9:9-1.22 recodified to 9:9-1.9.

New Rule, R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-1.23 Procedures: reporting loan status to credit bureaus

(a) If a borrower wishes to inspect and copy records pertaining to his or her defaulted loans held by the Authority, he or she shall make a written request within 20 days from the date of the Authority's notice. The written request shall include the borrower's social security number, the identity of the loans for which he or she wants records, and a reasonable description of the records he or she wishes to inspect. Upon receiving a proper written request, the Authority shall schedule an inspection, at which time the borrower may order copies of requested records for the fee of \$10.00 as set forth on the Authority's notice.

(b) If, after inspecting his or her records, but before the expiration of the 60-day period from the date of the Authority's notice, a borrower objects to the reporting of his or her defaulted loan(s) to credit bureaus, the borrower shall have the opportunity to have an administrative review of the legal enforceability or past-due status of the loan(s). To request an administrative review, the borrower shall complete the Authority's request form included with the Authority's notice. The request form requires the borrower to identify the reasons for review and to file the form with the Authority within the 60-day period. Administrative reviews will be considered on the basis of this review process approved by the NJHEAA.

(c) If a borrower disagrees with the decision on his or her loan status reached on administrative review, and wishes to appeal that decision, the borrower shall file an appeal with the Department of Higher Education, Office of Student Loans, within 10 days of notification of the administrative review decision. Appeals shall be in the form of a letter addressed to the Appeals Committee, in care of the Director of the Office of Student Loans, New Jersey Department of Higher Education, CN 540, Trenton, New Jersey 08625, and shall contain the borrower's full name, social security number, and the identification of the contested loan(s). Appeals will be considered on the basis of this appeals process approved by the NJHEAA.

Amended by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Old 9:9-1.23 recodified to 9:9-1.10.

New Rule, R.1994 d.240, effective May 16, 1994.

See: 26 N.J.R. 893(a), 26 N.J.R. 2097(a).

9:9-1.24 (Reserved)

Amended by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Repealed rule concerning truth-in-lending.

9:9-1.25 (Reserved)

Amended by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Old 9:9-1.25 recodified to 9:9-1.11.

9:9-1.26 (Reserved)

Amended by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Repealed rule concerning interest; collection.

9:9-1.27 (Reserved)

Amended by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Old 9:9-1.27 recodified to 9:9-1.12 and substantially amended.

9:9-1.28 (Reserved)

Amended by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Repealed rule concerning deferment of payment.

9:9-1.29 (Reserved)

Amended by R.1983 d.413, effective October 3, 1983.
 See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).
 Old 9:9-1.29 recodified to 9:9-1.13 and amended.

9:9-1.30 (Reserved)

Amended by R.1983 d.413, effective October 3, 1983.
 See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).
 Repealed rule concerning delinquent payments; authority assistance.

9:9-1.31 (Reserved)

Amended by R.1983 d.413, effective October 3, 1983.
 See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).
 Old 9:9-1.31 recodified to 9:9-1.14 and amended.

9:9-1.32 (Reserved)

As amended R.1983 d.413, effective October 3, 1983.
 See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).
 Old 9:9-1.32 recodified to new 9:9-1.15 and substantially amended.

9:9-1.33 (Reserved)

As amended, R.1983 d.413, effective October 3, 1983.
 See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).
 Old 9:9-1.33 recodified to new 9:9-1.16 and amended.

9:9-1.34 (Reserved)

As amended, R.1983 d.413, effective October 3, 1983.
 See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).
 Old 9:9-1.34 recodified to new 9:9-1.17 and amended.

9:9-1.35 (Reserved)

As amended, R.1983 d.413, effective October 3, 1983.
 See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).
 Old 9:9-1.35 recodified to new 9:9-1.18 and amended.

9:9-1.36 (Reserved)

As amended, R.1983 d.413, effective October 3, 1983.
 See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).
 Old 9:9-1.36 recodified to new 9:9-1.19 and amended.

9:9-1.37 (Reserved)

As amended, R.1983 d.413, effective October 3, 1983.
 See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).
 Old 9:9-1.37 recodified to new 9:9-1.20.

9:9-1.38 (Reserved)

As amended, R.1983 d.413, effective October 3, 1983.
 See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).
 Old 9:9-1.38 recodified to new 9:9-1.21.

SUBCHAPTER 2. FEDERAL FAMILY EDUCATION LOAN PROGRAM STATUTES AND REGULATIONS

9:9-2.1 Rules and statutes incorporated by reference

(a) The part of the Code of Federal Regulations known as 34 C.F.R. 682.100 through and including 34 C.F.R.

682.840 (as of July 23, 1992) including all subsequent amendments and supplements is hereby adopted as rules and incorporated within these regulations.

(b) The part of the United States Code known as Title 20, Chapter 28, Subchapter IV, Part B, 20 U.S.C. 1071 through and including 1087e3 (as of March 1, 1990) including all subsequent amendments and supplements is hereby adopted as rules and incorporated within these regulations with the modifications indicated in (c) below:

(c) The following are modifications to (b) above:

1. 20 U.S.C. § 1078-1 is deleted.
2. 20 U.S.C. § 1078-2 is deleted.
3. 20 U.S.C. § 1078-3 is deleted.
4. 20 U.S.C. § 1086 is deleted.

As amended, R.1973 d.77, effective March 22, 1973.

See: 5 N.J.R. 107(d).

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Text substantially amended.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substantially amended.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

Case Notes

Regulations implementing New Jersey Higher Education Assistance Authority Law and incorporating by reference federal regulation providing that payments to guaranteed student loan lender on default claim should be reduced by any amount attributable to borrower's defenses are applicable exclusively to New Jersey Higher Education Assistance Authority (NJHEAA). *Morgan v. Markerdowne Corp.*, 976 F.Supp. 301 (D.N.J. 1997).

SUBCHAPTER 3. POLICY GOVERNING FEDERAL PLUS AND FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) LOAN PROGRAMS

9:9-3.1 Rules and statutes incorporated by reference

(a) The part of the Code of Federal Regulations known as 34 C.F.R. 682.100 through and including 34 C.F.R. 682.840 (as of July 23, 1992) including all subsequent amendments and supplements is hereby adopted as rules and incorporated within these regulations.

(b) The part of the United States Code known as Title 20, Chapter 28, Subchapter IV, Part B, 20 U.S.C. 1071 through and including 1087e3 (as of March 1, 1990) including all subsequent amendments and supplements is hereby adopted as rules and incorporated within these regulations.

(c) The provisions of N.J.A.C. 9:9-1, governing the Federal Family Education Loan Program shall also apply to loans made under the Federal PLUS/SLS programs unless they are inconsistent with or otherwise excepted within the provisions of this subchapter.

Amended by R.1988 d.478, effective October 3, 1988.
See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substantially amended.

Amended by R.1993 d.441, effective September 7, 1993.
See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

Case Notes

Regulations implementing New Jersey Higher Education Assistance Authority Law and incorporating by reference federal regulation providing that payments to guaranteed student loan lender on default claim should be reduced by any amount attributable to borrower's defenses are applicable exclusively to New Jersey Higher Education Assistance Authority (NJHEAA). *Morgan v. Markerdowne Corp.*, 976 F.Supp. 301 (D.N.J. 1997).

9:9-3.2 Eligibility

An applicant for a Federal PLUS or Federal SLS loan must meet the requirements set forth in 34 C.F.R. 682.201.

Amended by R.1988 d.478, effective October 3, 1988.
See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Deleted (a)1-2; Added CFR section number.

Amended by R.1993 d.441, effective September 7, 1993.
See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-3.3 Insurance fee and origination fee

(a) An applicant for a Federal PLUS or Federal SLS loan must pay the insurance fee as prescribed in 34 C.F.R. 682.202.

(b) No applicant for a Federal PLUS or Federal SLS loan, with a first disbursement prior to October 1, 1992, shall be charged an origination fee as prescribed in 34 C.F.R. 682.202.

(c) Applicants for a Federal PLUS or Federal SLS loan, with a first disbursement on or after October 1, 1992, shall be charged an origination fee as set forth in 34 C.F.R. 682.202.

Amended by R.1988 d.478, effective October 3, 1988.
See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Added "or SLS".

Amended by R.1993 d.441, effective September 7, 1993.
See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-3.4 Disbursement

Disbursement of funds must be in accordance with provisions set forth in 34 C.F.R. 682.207.

New Rule, R.1993 d.441, effective September 7, 1993.
See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

Prior text at section, "Interest", recodified to 9:9-3.5.

9:9-3.5 Interest

Interest must be calculated on a simple interest basis by all lenders.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Deleted text "On all loans . . . September 23, 1983, interest".

Recodified from 9:9-3.4 by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-3.6 Capitalization of accrued interest

For Federal PLUS or Federal SLS loans insured under a guarantee agency program, a lender may add accrued interest and unpaid insurance premiums to the borrower's unpaid principal balance according to the institution's own billing cycle but in no case more frequently than quarterly as set forth in 34 C.F.R. 682.202.

R.1983 d.605, effective January 3, 1984.

See: 15 N.J.R. 1820(a), 16 N.J.R. 49(a).

Amended by R.1987 d.456, effective November 16, 1987.

See: 19 N.J.R. 498(b), 19 N.J.R. 2187(a).

Date changed from January 1, 1984 to July 6, 1987.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substantially amended.

Recodified from 9:9-3.5 by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

SUBCHAPTER 4. POLICY GOVERNING DIRECT GUARANTEED STUDENT LOANS (GSL)

9:9-4.1 Qualifications for eligibility

(a) To be eligible for a direct GSL loan:

1. A borrower must meet the eligibility requirements set forth in the statutes and regulations governing the Guaranteed Student Loan Program;

2. A first-time applicant must exhaust the possibility of using eligible lenders first, by providing documented evidence of loan denial by three eligible lending institutions;

3. An applicant who has previously borrowed under the guaranteed student loan program must provide documented evidence that previous lender, and two other eligible lenders, will not grant an additional loan;

4. An applicant must request assistance in obtaining a loan from the Authority.

As amended, R.1977 d.353, effective September 20, 1977.

See: 9 N.J.R. 468(a).

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-4.2 and amended. Old 9:9-4.1 concerning objectives repealed.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substituted "GSL" for "public".

9:9-4.2 Loan amount

(a) Students unable to obtain a sufficient amount of loan needed to defray educational costs may apply for the difference between the amount granted by an eligible lender and the maximum loan amount per academic year allowed by Federal regulations.

(b) The entire loan amount, not to exceed the maximum allowable amount, may be obtained from the Authority.

As amended, R.1977 d.353, effective September 20, 1977.

See: 9 N.J.R. 468(a).

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-4.3 and amended.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substituted "the maximum allowable amount" for "\$5,000".

9:9-4.3 Terms of loan

Loans shall be governed by the procedures and policies of the guaranteed student loan program in effect at the time the loan is made.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-4.4.

9:9-4.4 Repayment

Repayment shall be in accord with the policy and procedures of the guaranteed student loan program.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-4.5 and amended.

SUBCHAPTER 5. POLICY GOVERNING GRADUATE INSURED LOANS

9:9-5.1 Qualifications for eligibility

(a) To qualify for eligibility under this program, an applicant must:

1. Be a permanent resident of New Jersey for at least six months prior to filing an application;
2. Be enrolled or accepted for enrollment as a full-time student pursuing a graduate or professional degree beyond the baccalaureate level, attending a school approved by the Authority for medicine, osteopathy, dentistry, veterinary medicine, podiatry or optometry; and
3. Have exhausted the provisions of the guaranteed student loan program.

As amended, R.1978 d.329, effective September 18, 1978.

See: 10 N.J.R. 281(a), 10 N.J.R. 431(a).

As amended, R.1980 d.339, effective July 30, 1980.

See: 12 N.J.R. 520(a).

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-5.2 and amended. Old 9:9-5.1 concerning objectives repealed.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-5.2 Loan amount

(a) The maximum loan amount shall not exceed \$7,000 annually.

(b) The total cumulative amount of loans for undergraduate, graduate or professional work shall not exceed \$32,000.

As amended, R.1977 d.353, effective September 20, 1977.

See: 9 N.J.R. 468(a).

As amended, R.1979 d.401, effective October 11, 1979.

See: 11 N.J.R. 342(b), 11 N.J.R. 551(c).

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-5.3 and increased maximum amount of loan from \$22,000 to \$32,000.

9:9-5.3 Terms of loan

(a) Loans shall be governed by the appropriate policies and procedures of the guaranteed student loan program in effect at the time the loan is made.

(b) The interest rate shall be nine percent simple, per annum.

(c) The borrower shall be responsible for payment of interest beginning with the disbursement of funds in accord with a schedule agreed to with the lender.

As amended, R.1980 d.339, effective July 30, 1980.

See: 12 N.J.R. 520(a).

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-5.4 and amended.

9:9-5.4 Repayment

(a) Repayment shall be in accord with the policy and procedures of the guaranteed student loan program.

(b) Repayment shall commence following a grace period of six months for a nine percent loan and nine months for a seven percent loan after withdrawal or graduation from school.

(c) In cases which involve multiple lenders, simultaneous amortization is required and payment shall be prorated among lenders involved.

(d) The borrower shall be provided at least five years following the grace period, but no longer than 10 years, to repay, providing that the annual repayment to all lenders involved be not less than \$600.00 (principal and interest).

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Recodified from old 9:9-5.5 and amended.

SUBCHAPTER 6. SALE, CONSOLIDATION AND REFINANCING OF LOAN

9:9-6.1 Eligible lenders

Refinancing by an eligible lender or holder of student loans guaranteed by the Authority, shall be in conformance with all applicable Authority statutes, rules and regulations, as amended.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Added "or holder" and substituted "Authority" for "SLMA".

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-6.2 Written notification of transfer/refinance

Upon transfer or refinance of an Authority guaranteed note, an eligible lender or holder shall give written notification of such transfer/refinance in accordance with 34 C.F.R. 682.208(e).

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Deleted "SLMA"; added "holder" and "and any other ...".

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-6.3 (Reserved)

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substituted "holder" for "lender".

Repealed by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

Section was "Notice of rejection".

9:9-6.4 Consolidation loans

Consolidation loans shall be made in accordance with Federal regulations, 34 C.F.R. 682.

As amended, R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Deleted old section "Alterations and modifications" and substituted new.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-6.5 Refinancing to secure combined payment

(a) If requested by a borrower, a lender may combine into a single repayment schedule a borrower's SLS and PLUS loans held by that lender.

(b) The interest rate on the refinanced loan will be the weighted average of the rates of all loans to be included.

(c) The 10 year repayment period for the refinanced loan begins on the first day of the repayment period of the most recent included loan. The lender must report the extension of any repayment of an included loan made under this option to the Authority.

(d) The borrower may not be charged an additional insurance premium, and a new promissory note is not required.

Repealed by R.1983 d.413, effective October 3, 1983.

See: 15 N.J.R. 475(a), 15 N.J.R. 1663(b).

Repealed rule concerning judicial actions and written approval.

New Rule, R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

9:9-6.6 Refinancing to secure a variable interest rate

(a) If requested by a borrower, a lender may refinance an outstanding fixed-rate SLS or PLUS at a variable interest rate.

(b) This variable interest rate, which is set and published by the U.S. Department of Education each July 1, may not exceed 12 percent.

(c) The lender may charge the borrower a fee of up to \$100.00 per loan to cover its administrative costs. The lender shall pay the Authority 50 percent of the amount charged the borrower to cover the costs of reissuance.

(d) No additional insurance premium may be charged to the borrower.

New Rule, R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

9:9-6.7 Refinancing by discharge of previous loan

(a) If a lender holding a borrower's PLUS/SLS loan denies the borrower the option of refinancing to secure a variable interest rate under N.J.A.C. 9:9-6.6, the borrower may apply to another lender for a new loan discharging the loans held by the original lender. The lender making the new loan shall send the proceeds of the loan to the original lender to retire the original debt.

(b) The borrower may be charged an insurance premium on the new loan, but may not be charged a refinancing fee.

(c) The length of the repayment period on the original loan may not be extended, except if necessary for an adjustment due to changes in the interest rate.

New Rule, R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

9:9-6.8 Refinancing ineligibility

Loans that are in default or otherwise uninsurable are not eligible for refinancing as set forth in N.J.A.C. 9:9-6.5, 6.6, and 6.7.

New Rule, R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

9:9-6.9 Rules and statutes incorporated by reference

(a) The part of the United States Code known as Title 20, Chapter 28, Subchapter IV, Part B, 20 U.S.C. § 1078-3 through and including § 1087e (as of March 1, 1990) including subsequent amendments and supplements is hereby adopted as rules and incorporated within these regulations.

(b) Federal regulations regarding deferments and periods of repayment applicable to the original loan(s) shall be applicable to loans refinanced pursuant to N.J.A.C. 9:9-6.5, 6.6, and 6.7.

(c) Purchase of defaulted refinanced loans by the Authority shall be subject to all pertinent Federal and State requirements for the purchase of defaulted Federal Family Education Loan programs.

New Rule, R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

SUBCHAPTER 7. POLICY GOVERNING NEW JERSEY COLLEGE LOANS TO ASSIST STATE STUDENTS (NJCLASS) PROGRAM

9:9-7.1 Definitions

(a) The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Adjusted gross income” means total family income reported for Federal income tax purposes.

“Authority” means New Jersey Higher Education Assistance Authority.

“Co-signer” means an individual who signs a promissory note and agrees to repay the loan in the event the borrower does not.

“Eligible collegiate institution” or “school” or “college” means a college or university approved or licensed by the New Jersey Commission on Higher Education or accredited by a regional accrediting association recognized by the Commission on Recognition of Postsecondary Accreditation and having a cohort default rate of 20 percent or less.

“In-school period” means the period in which a student is enrolled at an eligible school on at least a half-time basis as certified by the school.

“Lender” means New Jersey Higher Education Assistance Authority or its agent for the purposes of this program.

“Parent borrower” means a parent(s), spouse, legal guardian or other relative of a dependent undergraduate or graduate student.

“Reaffirmation” means the acknowledgment of the loan by the borrower or co-signer in a legally binding manner.

“Student borrower” means an undergraduate or graduate student.

“NJCLASS” means the New Jersey College Loans to Assist State Students Loan Programs.

(b) Terms not defined in this section shall be defined in accordance with 34 CFR § 682.200, including all subsequent amendments and supplements thereto.

Amended by R.1994 d.617, effective December 19, 1994.

See: 26 N.J.R. 3242(a), 26 N.J.R. 5012(a).

Amended by R.1997 d.45, effective February 3, 1997.

See: 28 N.J.R. 4838(a), 29 N.J.R. 423(b).

In “Eligible collegiate institution” deleted “New Jersey” preceding “cohort default rate”.

9:9-7.2 Eligibility

(a) To be eligible for a NJCLASS loan, each applicant must:

1. Be a citizen, national or legal resident of the United States or be in the U.S. for other than temporary purposes and intend to become a permanent resident (as evidenced by Immigration and Naturalization Service documentation);

2. Not be in default on any student loan or in violation of any of the other criteria for determining creditworthiness as set forth in the NJCLASS application;

3. Provide an acceptable co-signer if it is determined by the Authority that one is required; and

4. In the case of any Federal Family Education Loan amount, any Federal Direct Student Loan amount, or any NJCLASS loan amount that previously was canceled due to the applicant's total and permanent disability, obtain a certification from a physician that the applicant's condition has improved and that the applicant is able to engage in substantial gainful activity and sign a statement acknowledging that the NJCLASS loan the applicant receives cannot be canceled in the future on the basis of any impairment present when the new loan is made, unless that impairment substantially deteriorates. If the applicant is not the student, and the student had any loan amount described in this paragraph canceled due to the student's total and permanent disability, the student on whose behalf another borrower is applying for a NJCLASS loan must obtain the physician certification as to the student's improvement and sign the statement limiting future cancellation on the basis of the student's present impairment.

(b) In addition to all of the requirements in (a) above, a student applicant or a student on whose behalf the parent and/or borrower is applying for a NJCLASS loan shall:

1. Be a citizen, national or legal resident of the United States or be in the U.S. for other than temporary purposes and intend to become a permanent resident (as evidenced by Immigration and Naturalization Service documentation);

2. Have a high school diploma or a high school equivalency certificate;

3. Be enrolled or accepted for enrollment on at least a part-time basis in an eligible school;

4. If currently enrolled in an eligible school, be determined by the school to be making satisfactory academic progress; and

5. Have exhausted eligibility for or be ineligible for Federal Family Education Loans, Federal Direct Student Loans, and other forms of student assistance, excluding PLUS loans or student assistance under subpart I or part C of title VII of the Public Health Service Act.

Amended by R.1992 d.293, effective July 20, 1992.

See: 24 N.J.R. 1675(b), 24 N.J.R. 2626(a).

Revised (a)1.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).
 Amended by R.1994 d.617, effective December 19, 1994.
 See: 26 N.J.R. 3242(a), 26 N.J.R. 5012(a).
 Amended by R.1997 d.45, effective February 3, 1997.
 See: 28 N.J.R. 4838(a), 29 N.J.R. 423(b).

Deleted (a)2, requiring at least 6 month permanent New Jersey residency prior to filing; recodified former (a)3 through (a)5 as (a)2 through (a)4; substantially amended (a)4; and in (b)5, inserted reference to Federal Direct Student Loans.

9:9-7.3 Loan amounts

(a) The amount borrowed shall not exceed a student's estimated cost of attendance at the eligible school minus all other financial assistance for which the student is eligible (excluding PLUS loans or student assistance under subpart I or part C of title VII of the Public Health Service Act) for the academic period for which the loan is intended.

(b) The minimum amount which may be borrowed is \$500.00.

Amended by R.1992 d.293, effective July 20, 1992.
 See: 24 N.J.R. 1675(b), 24 N.J.R. 2626(a).
 Revised (a)-(b).
 Amended by R.1993 d.441, effective September 7, 1993.
 See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).
 Amended by R.1994 d.617, effective December 19, 1994.
 See: 26 N.J.R. 3242(a), 26 N.J.R. 5012(a).

9:9-7.4 Application procedure

(a) An applicant for a NJCLASS loan shall:

1. Complete the NJCLASS application and credit application. All parts of the application and credit application must be completed regardless of the applicant's age or marital status;

2. Submit the completed application to the eligible school the student attends or plans to attend for certification of enrollment and completion of the school section; and

3. Forward the application materials or request the school to forward these materials to the lender.

(b) Lender will process the application and the borrower and school will be notified of lender approval or disapproval.

(c) Lender will disburse loan funds to parent and/or borrowers in one disbursement. Funds to a student borrower will be made jointly payable to the student and the eligible school, mailed directly to the school and may be multiply disbursed.

Amended by R.1993 d.441, effective September 7, 1993.
 See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-7.5 Fees

(a) A recipient of a NJCLASS loan shall be required to pay an application and administrative fee to the New Jersey Higher Education Assistance Authority which combined will not exceed five percent of the total approved loan amount.

1. These fees shall be deducted from the loan proceeds.

2. For multiple disbursed loans, these fees will be deducted in equal installments, from each loan disbursement.

Amended by R.1993 d.441, effective September 7, 1993.
 See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-7.6 Interest

(a) The NJCLASS loan shall have a daily fixed simple annual interest rate, a variable interest rate, or another type of interest rate, as determined by the bonds or notes whose proceeds are funding the loan. The NJCLASS interest rate will be a pass through rate of the bond interest rate, associated costs of sale, and such other costs which may be required, and/or determined as the bonds are issued.

(b) Interest on a NJCLASS loan shall begin to accrue at the time of the first loan disbursement.

(c) Borrower payment of interest is required to be paid no more frequently than quarterly during the student's in-school period.

Amended by R.1992 d.436, effective November 2, 1992.
 See: 24 N.J.R. 2687(b), 24 N.J.R. 4035(b).

Revised (a).
 Amended by R.1993 d.441, effective September 7, 1993.
 See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).
 Amended by R.1997 d.45, effective February 3, 1997.
 See: 28 N.J.R. 4838(a), 29 N.J.R. 423(b).

In (a), inserted reference to variable interest rate or interest rate determined by the bonds or note funding the loan.

9:9-7.7 Repayment of loan

(a) Lender shall provide borrower with a completed repayment Disclosure Statement detailing due dates of required payments at the time of the first loan disbursement.

(b) Payment of the interest to lender during the in-school period on a NJCLASS loan must begin within 60 days after the loan is disbursed, unless the borrower chooses the option of capitalizing interest during the in-school period.

(c) Borrowers who choose to capitalize interest during the in-school period shall, in exchange for this option, be required to pay an increased loan interest rate, as established by the Authority pursuant to N.J.A.C. 9:9-7.6(a), over the regular program interest rate in effect at the time of borrowing.

(d) Payment of principal and interest shall begin within 60 days of a student's less than half-time enrollment, withdrawal or graduation at eligible institution.

(e) The minimum acceptable monthly payment for all NJCLASS loans shall be \$50.00.

(f) Notwithstanding any periods of deferment and/or forbearance, a NJCLASS loan shall be paid in full no later than 15 years from the first date of loan disbursement.

(g) The borrower has the right to repay the entire loan or any portion of the loan at any time without penalty.

Amended by R.1991 d.515, effective October 21, 1991.

See: 23 N.J.R. 2212(a), 23 N.J.R. 3143(b).

Option to defer loan interest added.

Public Notice: Program of college loans to assist State students established.

See: 23 N.J.R. 3180(c).

Public Notice: Loan interest rates.

See: 24 N.J.R. 3180(a).

9:9-7.8 Deferments and forbearance

(a) Under certain conditions borrowers will be permitted to defer payments of loan principal for specified periods of time. During periods of authorized deferment, borrowers remain responsible for the payment of the interest accruing on their loan(s). The following are available NJCLASS Program deferments and their requirements.

1. Full-time or half-time study at an eligible institution;

2. Unemployment:

i. The borrower must be currently unemployed and conscientiously seeking but unable to find full-time employment;

ii. Every three months the borrower must provide a signed written statement describing his or her conscientious search (at least three attempts) for full-time employment which includes:

(1) The names, addresses and phone numbers of the firms contacted;

(2) The name of the contact person at each firm; and

(3) A certification of registration with a public or private employment agency; and

iii. In order to remain eligible for the deferment, the borrower may not restrict his or her search to specific fields, positions, or salaries.

3. Service as an intern:

i. Borrower must be currently participating in an eligible internship which is supervised training which is required by a State licensing agency prior to certification for professional practice or service.

ii. Borrower must provide certification from the appropriate State licensing agency attesting to the necessity of the internship.

iii. Borrower must provide certification from the organization with which the internship is being undertaken which specifies:

(1) Acceptance of the borrower into the internship program; and

(2) Anticipated beginning and completion dates of the program.

4. Active duty status in the armed forces:

i. The borrower must provide a statement from his or her commanding officer attesting to full-time active duty status.

(b) Maximum allowable time periods for each of these deferments shall be established by the lender.

(c) Upon receipt of a borrower request for a deferment and all required documentation, the NJHEAA will notify the borrower regarding the deferment's authorization.

(d) Periods of authorized deferment do not extend the 15 year maximum loan repayment time.

(e) The lender may also, in its discretion, grant borrowers periods of forbearance in the repayment of their NJCLASS loan(s).

Amended by R.1992 d.293, effective July 20, 1992.

See: 24 N.J.R. 1675(b), 24 N.J.R. 2626(a).

Revised (a); added new (b)-(d); redesignated existing (b) as (e).

9:9-7.9 Default

(a) Default occurs when a borrower fails to make an installment payment when due, or to meet other terms of the Promissory Note under circumstances where the lender finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided failure to repay persists for:

1. At least 180 days; or

2. At least 240 days during the student's in-school period when interest-only payments are required.

(b) Upon default, borrower is liable for the entire balance of the loan, and the Authority will notify credit bureaus of the default.

(c) Borrower shall pay all charges and other costs, including reasonable attorney fees, necessary for the collection of monies due on the loan as a consequence of the default.

SUBCHAPTER 8. POLICY GOVERNING NEW JERSEY BETTER EDUCATIONAL SAVINGS TRUST (NJBEST) PROGRAM

Authority

N.J.S.A. 18A:72-10 and P.L. 1997, c.237.

Source and Effective Date

R.1998 d.4, effective January 5, 1998.
See: 29 N.J.R. 4372(a), 30 N.J.R. 68(a).

Subchapter Historical Note

Subchapter 8, Policy Concerning the Institution of the Higher Education Educational Loan Act, was repealed by R.1993 d.441, effective September 7, 1993. See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a). Subchapter 8, Policy Governing New Jersey Better Educational Savings Trust (NJBEST) Program, was adopted as R.1998 d.4, effective January 5, 1998. See: 29 N.J.R. 4372(a), 30 N.J.R. 68(a).

9:9-8.1 Purpose

The rules established by this subchapter are designed to promote savings for college through a college savings program that provides Federal and State tax benefits to participants.

9:9-8.2 Scope

The requirements set forth under this subchapter cover the administration, the policies and the procedures for participation in the New Jersey Better Educational Savings Trust (NJBEST) Program.

9:9-8.3 Definitions

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

“Account” means an individual trust account or savings account established as prescribed in this subchapter.

“Authority” means the New Jersey Higher Education Assistance Authority established by P.L. 1967, c.271.

“Cash” means cash, check, money order or wire transfer.

“Contributor” means the person or organization contributing to and maintaining an account and having the right to withdraw monies from the account before the account is disbursed to the designated beneficiary.

“Designated beneficiary” means:

1. The person designated at the time the account is opened as the person whose higher education expenses are expected to be paid from the account;

2. The replacement beneficiary if the change in designated beneficiary would not result in a distribution that is included in Federal gross income under section 529 of the Federal Internal Revenue Code; and

3. In the case of an interest in the program established under P.L. 1997, c.237 purchased by a state or local government or an organization described in section 501(c)(3) of the Federal Internal Revenue Code as a part of a scholarship program operated by the government or organization, the person receiving this interest as a scholarship.

“Disability” means a condition under which an individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be disabled unless he or she furnishes proof of the existence thereof in the form of a certification by a physician who is a doctor of medicine or osteopathy and legally authorized to practice in a state that the individual is disabled.

“Higher education institution” means an eligible educational institution as defined in or for purposes of section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529, except that with respect to proprietary institutions, only for degree granting programs licensed or approved by the Commission on Higher Education or for other proprietary institutions as determined by the Authority.

“Investment Manager” means the Division of Investment in the Department of the Treasury or the private entity or entities authorized to do business in this State as may be designated by the Authority to invest the funds of the trust pursuant to the terms of P.L. 1997, c.237.

“Member of the family” means, with respect to any taxpayer:

1. A son or daughter of the taxpayer, or a descendant of either;
2. A stepson or stepdaughter of the taxpayer;
3. A brother, sister, stepbrother, or stepsister of the taxpayer;
4. The father or mother of the taxpayer, or an ancestor of either;
5. A stepfather or stepmother of the taxpayer;
6. A son or daughter of a brother or sister of the taxpayer;
7. A brother or sister of the father or mother of the taxpayer;
8. A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer;
9. The spouse of any individual described in paragraphs 1 through 8 of this definition; and
10. Any other member of the family as defined in or for purposes of section 529 of the Federal Internal Revenue Code.

For purposes of this definition, a legally adopted child of an individual shall be treated as the child of such individual by blood.

"NJBEST scholarship" means a scholarship funded by the State of New Jersey for a designated beneficiary's undergraduate attendance at a higher education institution in New Jersey, as more fully described in N.J.A.C. 9:9-8.11.

"Nonqualified withdrawal" means a withdrawal from an account other than:

1. A qualified withdrawal;
2. A withdrawal made as the result of the death or disability of the designated beneficiary of any account;
3. A withdrawal made on account of a scholarship (or allowance or payment described in subparagraphs (B) or (C) of paragraph (1) of subsection (d) of section 135 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 135) received by the designated beneficiary, but only to the extent of the amount of that scholarship, allowance or payment;
4. A rollover or change in designated beneficiary which would not result in a distribution includible in Federal gross income under section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529; or
5. Any other withdrawal if the failure of the program to impose a more than de minimis penalty on the withdrawal would not cause the program to be a qualified State tuition program under section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529.

"Program" means the New Jersey Better Educational Savings Trust (NJBEST) Program established pursuant to P.L. 1997, c.237.

"Qualified higher education expenses" means tuition, fees, books, supplies, and equipment required for enrollment or attendance of a designated beneficiary at a higher education institution. Qualified higher education expenses shall also include room and board for a designated beneficiary at a higher education institution provided that the designated beneficiary is enrolled at least half-time (one half the normal full-time work load for the course of study the designated beneficiary is pursuing), and provided that the amount shall not exceed the minimum amount applicable to the designated beneficiary for room and board for such period in the cost of attendance defined by the Higher Education Act of 1965, 20 U.S.C. § 1087ll, for the higher education institution for such period.

"Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account, but a withdrawal shall not be considered a qualified withdrawal if the failure of the program to impose a more than de minimis penalty on the withdrawal would cause the program not to qualify as a qualified State tuition program under section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529.

"Trust" means the New Jersey Better Educational Savings Trust (NJBEST) established under P.L. 1997, c.237.

9:9-8.4 Procedure for opening an account

(a) The program shall be operated as a trust through the use of accounts for designated beneficiaries. An account may be opened by any person who desires to save to pay the qualified higher education expenses of a person by satisfying each of the following requirements:

1. Completing an application in the form prescribed by the Authority and thereby entering into a participation agreement with the Authority. The application shall include identifying and financial information about the contributor and the designated beneficiary, information about the designated beneficiary's educational goals, amount and method of contribution, and residency information if applicable;
2. Paying the application fee which may be imposed by the Authority, to be determined by the Authority after consultation with the investment manager or other contractor;
3. Making the minimum contribution required by the Authority for opening an account, which shall be \$25.00;
4. Indicating the account or accounts to be opened; and
5. If the investment manager is the Division of Investment in the Department of the Treasury, demonstrating to the satisfaction of the Authority that either the contributor, if an individual, or the designated beneficiary is a New Jersey resident. Residence is defined in terms of domicile. Domicile is defined as the place where a person has his or her true, fixed, permanent home and principal establishment, and to which, whenever he or she is absent, he or she has the intention of returning. Documents providing evidence of residency include but are not limited to: driver's license, voter registration form, tax return(s). If the investment manager is not the Division of Investment in the Department of the Treasury, the requirement of New Jersey residency for either the contributor or the designated beneficiary would not apply unless otherwise determined by the Authority.

9:9-8.5 Contributions

(a) Contributions to accounts may be made only in cash, as defined in N.J.A.C. 9:9-8.3.

(b) Except for amounts provided to a designated beneficiary qualifying for a NJBEST scholarship, only the contributor may make contributions to an account after the account is opened.

(c) The minimum contribution that may be made to an account at any one time shall be no less than \$25.00.

(d) The minimum contribution to maintain an account shall be no less than either \$25.00 a month or \$300.00 a year up to \$1,200. Once at least \$1,200 is contributed to an account and provided there is no nonqualified withdrawal from that account, no additional contributions are required to maintain the account.

(e) The maximum contribution for any designated beneficiary shall not exceed the amount necessary to pay the qualified higher education expenses of the designated beneficiary. To achieve this end, the Authority directly or through a contractor shall:

1. Issue procedures for aggregating the total balance of multiple accounts established for a designated beneficiary;

2. Establish a maximum total balance that may be held in accounts for a designated beneficiary;

3. Require that persons who contribute to an account certify that to the best of their knowledge that the balance in all "qualified State tuition programs" (as defined in section 529 of the Federal Internal Revenue Code, 26 U.S.C. § 529) of which the NJBEST Program designated beneficiary is the designated beneficiary does not exceed the lesser of a maximum college savings amount established by the Authority from time to time, or the cost in current dollars of qualified higher education expenses that the contributor reasonably anticipates the designated beneficiary to incur; and

4. Require that any excess balances with respect to a designated beneficiary be promptly withdrawn in a non-qualified withdrawal or rolled over to another account in accordance with N.J.A.C. 9:9-8.7.

(f) No contributor to or designated beneficiary under the NJBEST program may directly or indirectly direct the investment of any contributions to the program (or the earnings thereon).

9:9-8.6 Cancellations and withdrawals

(a) A contributor may at any time cancel a participation agreement with the Authority by providing the Authority 60 days' notice to terminate the agreement. If the participation agreement is cancelled, the contributor is entitled to a withdrawal of principal and earnings.

(b) Contributors may withdraw part of the balance from an account on 60 days' notice.

(c) To qualify for penalty-free withdrawals of earnings on an account, a certification acceptable to the Authority must be provided that the withdrawal is for one or more of the following reasons:

1. The withdrawal is to be used for qualified higher education expenses of the designated beneficiary;

2. The withdrawal is made on account of the death or disability of the designated beneficiary;

3. The withdrawal is made on account of a scholarship (or allowance or payment described in section 135(d)(1)(B) or (C) of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 135) received by the designated beneficiary, but only to the extent of the amount of that scholarship, allowance or payment; or

4. The withdrawal is for another reason if the failure of the program to impose a more than de minimis penalty on the withdrawal would not cause the program to cease to be a qualified State tuition program under section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529.

9:9-8.7 Procedures for changes in designated beneficiary and rollovers

(a) A contributor may change the designated beneficiary of an account as permitted in section 529 of the Federal Internal Revenue Code, 26 U.S.C. § 529, by providing the Authority 60 days' notice of the request to change and evidence acceptable to the Authority that the new designated beneficiary is a member of the family of the old designated beneficiary.

(b) A contributor may rollover all or a portion of an account to another account as permitted in section 529 of the Federal Internal Revenue Code, 26 U.S.C. § 529, by providing the Authority 60 days' notice of the request to make the rollover and evidence acceptable to the Authority that the other designated beneficiary is a member of the family of the old designated beneficiary.

9:9-8.8 Fees and charges

The Authority may charge, impose and collect reasonable administrative fees, investment fees, and service charges in connection with any agreement, contract or transaction relating to the program. These fees and charges shall be determined by the Authority after consultation with the investment manager or contractor. These fees and charges may be imposed directly on contributors to the program or may be taken as a percentage of the investment earnings on accounts.

9:9-8.9 Penalty for nonqualified withdrawals

(a) In the case of any nonqualified withdrawal from an account, a penalty amount of 10 percent of the investment earnings on an account shall be withheld and paid to the Authority for use in operating and marketing the program.

(b) If a contributor makes a nonqualified withdrawal and no penalty amount is withheld pursuant to (a) above or the amount withheld was less than the amount required to be withheld under that subsection for nonqualified withdrawals, the contributor shall pay the unpaid portion of the penalty to the Authority at the same time that the contributor files a State income tax return for the taxable year of the withdrawal, or if the contributor does not file a return, the unpaid portion of the penalty shall be paid on or before the due date for filing of that income tax return.

9:9-8.10 Statements, reports on distributions, information returns

(a) The Authority or its designee shall prepare, distribute, and file statements, reports on distributions, and information returns relating to accounts to the extent required by section 529 of the Federal Internal Revenue Code or regulations issued thereunder. Separate records and accounting shall be maintained for each account for each designated beneficiary.

(b) Statements shall be provided to each contributor at least once each year within 31 days of the end of the 12-month period to which they relate. The statement shall identify the contributions made during the preceding 12-month period, the total contributions made through the end of the period, the value of the account as of the end of such period, distributions made during such period and any other matters that the Authority shall require to be reported to the contributor, to the extent required by section 529 of the Federal Internal Revenue Code or regulations issued thereunder.

(c) If there is any contribution to or distribution from an account to any individual or for the benefit of any individual during a calendar year, such contribution or distribution shall be reported to the Internal Revenue Service and to the contributor or designated beneficiary to the extent required by Federal law or regulation.

(d) Statements and information returns relating to accounts shall be prepared and filed to the extent required by Federal or State tax law.

9:9-8.11 Exclusion from New Jersey gross income

(a) Gross income shall not include the earnings on or distribution from an individual trust account or savings account established under the NJBEST Program.

(b) "Distribution" means a withdrawal which pays the designated beneficiary's qualified higher education expenses described in section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529, or which represents contributions net of earnings thereon.

9:9-8.12 Eligibility for NJBEST scholarship

(a) An additional amount of \$500.00, subject to appropriations available therefor, shall be credited toward the qualified higher education expenses of a designated beneficiary at the time of a qualified withdrawal provided:

1. The contributor demonstrates to the satisfaction of the Authority that the contributor participated in the program for at least four years by making and not withdrawing a qualifying minimum initial deposit of \$1,200 or by making qualifying minimum annual contributions of \$300.00 for a designated beneficiary;

2. The designated beneficiary in (a) above demonstrates his or her undergraduate attendance or enrollment

in a higher education institution in this State by submitting a certification by the higher education institution at the time of initial attendance or enrollment; and

3. Either the contributor, if a person, or the designated beneficiary demonstrates to the satisfaction of the Authority that the contributor or designated beneficiary is a New Jersey resident. Residence for purposes of the NJBEST scholarship is defined in N.J.A.C. 9:9-8.4(a)5.

(b) The additional amount provided under (a) above shall meet the requirements of a qualified scholarship within the meaning of section 117 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 117, for a designated beneficiary satisfying the requirements of (a) above.

(c) A designated beneficiary satisfying the requirements of (a) above shall not be eligible to receive more than one such additional amount provided under (a) above.

9:9-8.13 Amount excluded from State need-based financial aid eligibility

(a) A dollar amount of an account, which shall be \$25,000, shall be excluded from consideration in evaluating the financial need of a student, or not be deemed a financial resource or a form of financial aid or assistance to each student, for purposes of determining the eligibility of a student for any scholarship, grant, or monetary assistance awarded by the State; nor shall the amount of any account as determined by the Authority provided for a designated beneficiary under this subchapter reduce the amount of any scholarship, grant or monetary assistance which such student is otherwise entitled to be awarded by the State.

(b) To be eligible for the exclusion provided under (a) above, the student shall demonstrate to the satisfaction of the entity or the agency awarding the State funds that the dollar amount in that student's account is less than the Authority's annual exclusion threshold. Higher education institutions may report this account information on behalf of the student.

9:9-8.14 Statement on contracts and applications

Every contract and application that may be used in connection with a contribution to an account shall clearly indicate that the account is not insured by this State nor is an investment return guaranteed by this State.

9:9-8.15 Selection of investment manager

(a) Should the Authority determine to select an investment manager or managers other than the Division of Investment in the Department of the Treasury, it shall solicit proposals and shall select from among the bidders the investment manager or managers based on the following factors not necessarily listed in order of significance. These factors are general in nature. Cost shall not be the sole determining factor.

1. The investment manager's ability to adhere to the prudent person standard of care applicable to the Division of Investment in the Department of the Treasury pursuant to subsection b. of section 11 of P.L. 1950, c.270 (N.J.S.A. 52:18A-89);

2. The impact of fees and costs to be imposed by the manager or managers on investment returns to contributors;

3. The comparison of fees and costs to be imposed by the manager or managers with comparable fees and costs that would be imposed if the Division of Investment in the Department of the Treasury were the investment manager;

4. The investment manager's financial stability and integrity;

5. The ability of the investment manager to satisfy recordkeeping and reporting requirements;

6. The applicable experience of proposed contract staff in providing relevant investment management services;

7. The ability to assist participation in the program through features which may include willingness to accept minimum contributions, frequent contributions, debit and other automatic contributions, as well as customer service features that enable participant access to account information such as a toll-free telephone number and extended hours of business; and

8. The investment manager's capability and flexibility to provide accounting services and computer support programs to satisfy the stringent requirements and specifications of the Program.

9:9-8.16 Investment by private entity

If the investment manager is a private entity, the investment of the principal and interest of any amount contributed under P.L. 1997, c.237 shall be backed by the full faith and credit of the United States or be fully insured by the Federal Deposit Insurance Corporation or other similar insurer backed by the full faith and credit of the United States. No account balance shall exceed the maximum amount of insurance provided by the insurer. No investment is permitted in derivatives of eligible securities, as defined in this section. Any investment shall be designed to balance prospective payments according to the following: the average maturity of all principal and interest payments (or duration of the portfolio) of fixed income assets should approximately equal the expected schedule of payments to the participants.

9:9-8.17 Certain limitations

(a) Nothing in the NJBEST Program shall be construed to:

1. Guarantee that a designated beneficiary will be admitted to a higher education institution or be allowed to continue enrollment at or graduate from a higher education institution after admission;

2. Establish State residency for a person merely because the person is a designated beneficiary or contributor; or

3. Guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified higher education expenses of a designated beneficiary.

(b) Nothing in the NJBEST Program establishes any obligation of this State or any agency or instrumentality of this State to guarantee for the benefit of any contributor or designated beneficiary the following:

1. The rate of interest or other return on any account; or

2. The payment of interest or other return on any account.

(c) Nothing in the NJBEST Program establishes any obligation or liability of this State or any agency or instrumentality of this State with respect to any Federal or State tax liability of any contributor or designated beneficiary.

SUBCHAPTER 9. POLICY GOVERNING DIRECT PLUS/SLS LOANS

9:9-9.1 Qualifications for eligibility

An applicant for a direct PLUS/SLS loan shall fulfill the requirements set forth in 34 C.F.R. § 682.201.

Amended by R.1988 d.478, effective October 3, 1988.
See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).
Substantially amended.

9:9-9.2 Loan prerequisites

(a) Prior to obtaining a direct PLUS/SLS loan, the borrower must satisfy the following additional requirements:

1. A first-time applicant must exhaust the possibility of using eligible lenders first, by providing documented evidence of loan denial by at least one eligible lending institution;

2. An applicant who has previously borrowed under the PLUS/SLS program must provide documented evidence that the previous lender will not grant an additional loan;

3. Each applicant may be required to have a co-signer for each loan at the discretion of the Authority;

4. Each applicant, along with the co-signer, may be required to personally appear at the office of the Authority prior to disbursement of the loan funds; and

5. Creditworthiness will be evaluated on both the borrower and the co-signer.

Amended by R.1986 d.100, effective April 7, 1986.

See: 17 N.J.R. 2728(b), 18 N.J.R. 682(b).

Added text to (a)3 "at the discretion of the Authority".

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Added "SLS" and added a "co-signer".

9:9-9.3 Loan amount

(a) The maximum amount a parent of a dependent undergraduate student or a graduate student may borrow for one academic year (grade level) shall not exceed \$4,000 excluding Guaranteed Student Loan funds.

(b) The maximum amount a full-time independent undergraduate student may borrow for one academic year shall not exceed \$4,000 including any amounts borrowed under the Guaranteed Student Loan Program for the same academic year.

(c) The total amount to any one student or parent shall not exceed \$20,000 excluding Guaranteed Student Loan funds for the parent of a dependent undergraduate student, a graduate student, or an independent undergraduate student.

As amended, R.1984 d.153, eff. May 7, 1984.

See: 16 N.J.R. 203(a), 16 N.J.R. 1094(b).

Student loan procedures and amounts changed.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Raised amount to "\$4,000" and "\$20,000".

9:9-9.4 Application procedure; applicant

(a) An applicant for a direct PLUS/SLS loan shall:

1. Provide written evidence of denial from a participating PLUS/SLS lender. An applicant who has previously borrowed under the PLUS/SLS program must provide

documented evidence that the previous lender will not grant an additional loan;

2. Once loan denial has been proven, an applicant will be forwarded an application and two credit applications (for borrower and co-signer); these forms may only be obtained from the direct PLUS/SLS loan office at the Authority;

3. Complete the application and two credit applications following the directions on the forms; all parts of the application and credit applications must be completed regardless of the applicant's and co-signer's age or marital status;

4. Submit the application to the eligible educational institution the borrower plans to attend for certification of enrollment and completion of school section;

5. Pay an insurance fee of one percent of the requested amount of the loan. No refunds will be issued after the application has been approved by the Authority.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Substantially amended.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-9.5 Interest rates

Loans shall be governed by the interest rates of the PLUS/SLS program in effect at the time the loan is made.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Added "SLS".

9:9-9.6 Repayment

Terms of repayment shall be governed by the regulations of the PLUS/SLS program, 34 C.F.R. § 682.209 et seq., as amended.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Added "SLS" and changed "§ 683.1" to "§ 682.209".

9:9-9.7 Deferment of payment

Deferments of payment shall be governed by the regulations of the PLUS/SLS program, 34 C.F.R. § 682.210 et seq., as amended.

Amended by R.1988 d.478, effective October 3, 1988.

See: 20 N.J.R. 1636(a), 20 N.J.R. 2452(b).

Added "SLS" and changed "§ 683.1" to "§ 682.210".

SUBCHAPTER 10. (RESERVED)**Subchapter Historical Note**

This subchapter "Reduction in default rate institutional monetary incentive" was adopted pursuant to authority of N.J.S.A. 18A:72-10(2) and became effective January 17, 1984 as R.1983 d.647. See: 15 N.J.R. 1336(b), 16 N.J.R. 143(a). The subchapter was repealed effective October 3, 1988 as R.1988 d.478. See: 20 N.J.R. 1626(a), 20 N.J.R. 2452(b).

**SUBCHAPTER 11. POLICY GOVERNING
EDUCATIONAL INSTITUTION
COMPLIANCE WITH THE STAFFORD LOAN
PROGRAM; CORRECTIVE MEASURES**

9:9-11.1 Standards

(a) Institutions of higher education participating in the Stafford Loan Program shall comply with existing Federal and State statutes, regulations and standards governing the program.

(b) Individual institutions shall be periodically evaluated by an Authority program audit to confirm their program compliance. In the performance of this audit, auditors shall be given access to all records relative to student loans, in paper, microfiche or electronic formats according to industry standards, including, but not limited to:

1. Loan applications;
2. Notes/Disclosure Statements evidencing loan obligations outstanding;
3. Individual student loan ledgers;
4. Attendance records where these are required to be maintained;
5. Admissions' applications;
6. Evidence of admission;
7. Needs analysis documents;
8. Financial aid award letters; and

9. Correspondence files pertaining to student loan accounts.

(c) A draft report outlining the findings of the auditors will be provided to the institution for comment. The institution shall respond within two weeks of receipt of the draft report and this response will be included in the auditors' final report.

(d) Institutions determined to be in noncompliance as a result of this audit shall be subject to corrective or disciplinary action initiated by the Authority.

(e) All references to the Stafford Loan Program within this subchapter shall include all New Jersey Higher Education Assistance Authority (NJHEAA) guaranteed loans. These shall include, but not be limited to, the Supplemental Loans for Students (SLS) and Parent Loans for Undergraduate Students (PLUS) Programs.

Amended by R.1989 d.343, effective July 3, 1989.

See: 21 N.J.R. 963(a), 21 N.J.R. 1827(b).

Reference to Guaranteed Student Loan Program replaced with Stafford Loan Program; at (b)4, reference to listing of defaulted student loans replaced by attendance records. ...; draft added modifying reports and two week institutional response time established in (c).

Amended by R.1989 d.519, effective October 2, 1989.

See: 21 N.J.R. 1962(a), 21 N.J.R. 3173(a).

Added (e).

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).

9:9-11.2 Audit procedures

(a) Every school participating in the Stafford Loan Program shall be subject to selection for a program compliance audit. Those institutions with a student loan default rate in excess of 20 percent have a significant probability of selection.

(b) All audits shall cover the prior two fiscal year period, and may be expanded up to the prior five year period if preliminary audit findings indicate significant noncompliance, in the opinion of the auditors, in one or more of the examined areas set forth in (c) below.

(c) Program audit findings utilized to ascertain program noncompliance shall include, but not be limited to, the following areas:

1. Student withdrawals before completion of the first quarter of program instruction or completion of the academic year;
2. Failure to provide documentation of timely notification to the Authority and lenders of student enrollment status changes;
3. Failure to refund loan monies to lenders on behalf of students;
4. Refunds to lenders on behalf of students not made in a timely manner;

5. Failure of student files to include information required pursuant to Federal and State regulations, or inaccurate files; and

6. Student files missing throughout the time period the auditors are on site.

(d) The auditors shall compute the percentage of non-compliance for each of the categories specified in (c) above.

(e) Noncompliance percentages shall be used to calculate violation points which are weighted to reflect the more serious nature of certain audit categories. The violation points shall be calculated as follows:

1. The percentage of withdrawals before completion of the first quarter of program instruction or completion of the academic year shall be multiplied by one;

2. The percentage of failure to provide timely notification of student enrollment status changes shall be multiplied by one;

3. The percentage of failure to refund loan monies to lenders on behalf of students shall be multiplied by four;

4. The percentage of failure to make refunds to lenders on behalf of students in a timely manner shall be multiplied by two;

5. The percentage of student files with incomplete or inaccurate data shall be multiplied by two;

6. The percentage of files missing in their entirety shall be multiplied by four.

(f) The weighted violation points for each of the categories specified in (c) above shall be added together, and this total shall be divided by the number of auditable categories to determine a "Noncompliance Index".

(g) Institutions with a "Noncompliance Index" of 10.0 or greater shall be considered to demonstrate serious deficiencies in loan program administration and these institutions shall be subject to corrective action by the Authority.

(h) This subchapter shall not restrict the Authority's ability to limit, suspend, or terminate an institution's Stafford Loan Program participation where the program audit indicates that the institution is in substantial violation of other Federal or State Stafford Loan Program statutes and/or regulations.

Amended by R.1988 d.477, effective October 3, 1988.
See: 20 N.J.R. 1641(a), 20 N.J.R. 2456(a).

Deleted old text from (b) and substituted new.
Repeal and New Rule: R.1989 d.343, effective July 3, 1989.
See: 21 N.J.R. 963(a), 21 N.J.R. 1827(b).

9:9-11.3 Sanctions

(a) The extent of corrective or disciplinary action initiated by the Authority for violations as established in N.J.A.C. 9:9-11.2 shall be determined by the institution's "Noncompliance Index" as determined pursuant to N.J.A.C. 9:9-11.2(d), (e) and (f).

1. Institutions with a "Noncompliance Index" between 10.0 to 14.9 inclusive shall be allowed continued participation in the Stafford Loan Program but shall be required to provide an acceptable Plan of Corrective Action to the Authority within 90 days of formal notification of violation.

2. Institutions with a "Noncompliance Index" between 15.0 to 24.9 inclusive shall have their participation in the Stafford Loan Program limited to 50 percent of their entering classes for a period of 9 months. Additionally, the institutions shall submit to the Authority an acceptable Plan of Corrective Action within 90 days of formal notification of limitation.

3. Institutions with a "Noncompliance Index" between 25.0 to 34.9 inclusive shall have their participation in the Stafford Loan Program limited to 50 percent of their entering classes for a period of 18 months. Additionally, the institutions shall submit to the Authority an acceptable Plan of Corrective Action within 90 days of formal notification of limitation.

4. Institutions with a "Noncompliance Index" between 35.0 to 69.9 inclusive shall be suspended from participation in the Stafford Loan Program for 18 months. The institutions shall submit an acceptable Plan of Corrective Action before formal reinstatement will be considered.

5. Institutions with a "Noncompliance Index" of 70.0 or more shall be terminated from participation in the Stafford Loan Program.

Amended by R.1989 d.343, effective July 3, 1989.

See: 21 N.J.R. 963(a), 21 N.J.R. 1827(b).

Substantially amended by establishing use of "Noncompliance Index".

9:9-11.4 Appeal procedure

(a) The Executive Director of the Authority is authorized to institute any corrective action set forth in N.J.A.C. 9:9-11.3. Any institution which is sanctioned shall have the right to appeal the Executive Director's action within 30 days of the date of the letter notifying the institution of the sanction.

(b) The Authority shall provide an institution with an informal pre-hearing conference which may subsequently be followed by a formal appeal process if the institution chooses to exercise this right.

(c) To initiate the informal pre-hearing conference, the following procedure shall be utilized:

1. The petitioner shall file with the Executive Director a letter providing the essential facts giving rise to the contesting of the Authority imposed sanction and indicating its desire to appeal the determination.

2. Upon receipt of the letter outlined in (c) above, the Executive Director shall schedule a conference between representatives of the institution and members of the NJHEAA staff. The purpose of this conference is to allow mediation to narrow the dispute.

3. If the pre-hearing conference conducted under (c)2 above is unsuccessful in achieving resolution of the dispute, the institution shall have the right to file a formal appeal of the Authority imposed sanction.

(d) To initiate a formal appeal, the following procedure shall be utilized:

1. The petitioner shall file with the Executive Director the original copy of a formal petition, together with proof of mailing.

2. The petition must state the name and address of the petitioner, and a statement of the essential facts and legal grounds giving rise to the contesting of the Executive Director's imposed sanction.

(e) The Executive Director shall bring the petition before the Authority in a timely manner. The petitioner may appear before the Authority but if it chooses not to do so the Executive Director shall notify the petitioner of the Authority's decision in the matter. The institution shall be provided with the opportunity for a hearing pursuant to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Amended by R.1989 d.343, effective July 3, 1989.

See: 21 N.J.R. 963(a), 21 N.J.R. 1827(b).

Appeal procedures more fully established and delineated.

Amended by R.1993 d.441, effective September 7, 1993.

See: 25 N.J.R. 2187(a), 25 N.J.R. 4079(a).