

CHAPTER 15

RULES AND PROCEDURES FOR IMPLEMENTATION OF THE HIGHER EDUCATION FACILITIES TRUST FUND ACT

Authority

N.J.S.A. 18A:3B-24 (P.L. 1994, c.48) and
18A:72A-49 (P.L. 1993, c.375).

Source and Effective Date

R.2004 d.448, effective November 9, 2004.
See: 36 N.J.R. 2134(a), 36 N.J.R. 5352(a).

Chapter Expiration Date

Chapter 15, Rules and Procedures for Implementation of the Higher Education Facilities Trust Fund Act, expires on November 9, 2009.

Chapter Historical Note

Chapter 15, New Jersey Educational Facilities Authority: Rules and Procedures for Implementation of the Higher Education Facilities Trust Fund Act, was originally codified in Title 9 as Chapter 18, New Jersey Educational Facilities Authority: Rules and Procedures for Implementation of the Higher Education Facilities Trust Fund Act. Chapter 18 was adopted as R.1994 d.304, effective June 20, 1994. See: 26 N.J.R. 1486(a), 26 N.J.R. 2579(a).

Chapter 18, New Jersey Educational Facilities Authority: Rules and Procedures for Implementation of the Higher Education Facilities Trust Fund Act, was recodified as N.J.A.C. 9A:15 by R.1995 d.114, effective February 21, 1995. See: 26 N.J.R. 4879(a), 27 N.J.R. 683(a).

Pursuant to Executive Order No. 66(1978), Chapter 15, New Jersey Educational Facilities Authority: Rules and Procedures for Implementation of the Higher Education Facilities Trust Fund Act, expired on June 20, 1999.

Chapter 15, New Jersey Educational Facilities Authority: Rules and Procedures for Implementation of the Higher Education Facilities Trust Fund Act, was adopted as new rules by R.1999 d.234, effective July 19, 1999. See: 31 N.J.R. 843(b), 31 N.J.R. 1924(b).

Administrative change. See: 33 N.J.R. 569(a).

Chapter 15, Rules and Procedures for Implementation of the Higher Education Facilities Trust Fund Act, was readopted as R.2004 d.448, effective November 9, 2004. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

9A:15-1.1 Purpose and authority

The following rules and procedures are established to implement the Higher Education Facilities Trust Fund Act, P.L. 1993, c.375, an Act supplementing the New Jersey Educational Facilities Authority Act, Chapter 72A of Title 18A of the New Jersey Statutes.

9A:15-1.2 Definitions

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

“Act” means the New Jersey Educational Facilities Authority Act, N.J.S.A. 18A:72A-1 et seq.

“Amending Act” means the Higher Education Facilities Trust Fund Act, P.L. 1993, c.375.

“Authority” means the New Jersey Educational Facilities Authority or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the Authority shall be given by law.

“Bond” or “bonds” means bonds or notes of the Authority issued pursuant to the authority granted by the Amending Act.

“Chair” means the Chair of the Commission on Higher Education.

“Commission” means the Commission on Higher Education.

“Executive Director” means the Executive Director of the Commission on Higher Education.

“Institution” means a public or private institution of higher education that is eligible to receive State aid.

“Project” means a capital construction project to construct, reconstruct, develop, extend, or improve instructional, laboratory, communication, or research facilities.

“Trust fund” means the Higher Education Facilities Trust Fund as created by chapter 375, P.L. 1993.

Amended by R.1995 d.114, effective February 21, 1995.
See: 26 N.J.R. 4879(a), 27 N.J.R. 683(a).

Amended by R.2004 d.448, effective December 6, 2004.

See: 36 N.J.R. 2134(a), 36 N.J.R. 5352(a).

Deleted “Board” and “South Jersey multi-institutional economic development facilities”.

9A:15-1.3 Process for application for grant

(a) The Commission shall consider for approval grant requests from institutions for the cost, or a portion of the cost, of the construction, reconstruction, development, extension, or improvement of instructional, laboratory, communication, and research facilities. The grants shall be used exclusively for those purposes.

(b) Upon approval by its governing board at a duly authorized meeting, a participating institution shall apply to the Commission for a grant from the trust fund. Proposals shall include the following information:

1. A copy of the institutional governing board resolution approving the institution's application that includes an institutional commitment to support the annual operating costs and maintenance requirements for any new space to be constructed or acquired as a result of the project;

2. A brief description of the process used to generate the request;

3. A statement describing how the proposed project relates to the current institutional mission, plans, and priorities;

4. The program(s) or function(s) to be served by the project, including specific educational objectives to be met;

5. A complete description of the project, including design information if appropriate for the project;

6. The estimated schedule for the completion of the project;

7. Cost data for the project along with the identification of all sources of revenue to be used to pay any costs not funded by the grant;

8. Certification by the institution that the project would be in compliance with existing codes, statutes and government guidelines;

9. Space justification for any new space to be constructed or acquired as a result of the project; and

10. Other information as may be required by the Executive Director on a case by case basis and relating to a specific proposal.

(c) The grant request shall be submitted in a format provided by the Commission.

(d) Grant applications must be approved at a public meeting of the Commission.

(e) The total dollar amount of a grant approved for any institution shall not exceed the institution's allocation as approved by the Commission.

(f) The Commission shall forward to the Authority a copy of the resolution approved by the Commission including the amount of the grant.

(g) The Commission shall submit to the Legislature a copy of the resolution approving the grant along with the amount of the grant. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 60 days, the grant shall be deemed to be authorized.

(h) Each grant awarded shall be contingent upon the recipient governing board entering into a contract or contracts for the commencement of the construction, reconstruction, development, extension, or improvement of the facility no later than one year from the date on which the grant funds are made available. The funds shall be considered available on the date of issuance by the Authority of the corresponding bond or on the date of authorization of each grant, whichever is later.

(i) No bonds shall be issued by the Authority without the prior written consent of the State Treasurer.

(j) Proceeds from the sale of bonds shall cover the cost of bond issuance and administrative costs of the program.

(k) The term of any bond issued shall not exceed 15 years.

Amended by R.1995 d.114, effective February 21, 1995.

See: 26 N.J.R. 4879(a), 27 N.J.R. 683(a).

Amended by R.1996 d.499, effective October 21, 1996.

See: 28 N.J.R. 3699(a), 28 N.J.R. 4580(a).

In (h) made funds available in the alternative on the date of authorization of each grant and in (k) extended the maximum term from 10 to 15 years.

Amended by R.2004 d.448, effective December 6, 2004.

See: 36 N.J.R. 2134(a), 36 N.J.R. 5352(a).

In (c), deleted "Board (for allocations made before July 1, 1994) or" preceding "Commission".

9A:15-1.4 Payment of principal and interest

The State Treasurer shall contract with the Authority to pay to the Authority the amount necessary to pay the principal and interest on all bonds subject to the appropriation of State Lottery Funds.

9A:15-1.5 Allocation of funds

(a) The Commission shall determine the allocation of money available from the authorization of new bonds by the Treasurer as a result of the retirement of bonds previously issued by the Authority pursuant to the Amending Act.

(b) The Commission may reallocate any balance in the amounts authorized if the amounts are not approved by the Commission for a grant within 18 months of the allocations made by the Commission.

(c) No reallocation shall be made pursuant to (b) above if:

1. The grant application has been received by the Commission within 18 months of the allocation; or
2. Delays are the result of Federal, State, or local governmental approvals or regulatory requirements not attributable to the institution; or
3. In the sole determination of the Commission there are other compelling and documentable reasons.

(d) The Executive Director shall contact all institutions to which funds have been allocated 15 months following such allocation to determine what, if any, funds will become available for reallocation after 18 months.

Amended by R.1995 d.114, effective February 21, 1995.
 See: 26 N.J.R. 4879(a), 27 N.J.R. 683(a).
 Amended by R.2004 d.448, effective December 6, 2004.
 See: 36 N.J.R. 2134(a), 36 N.J.R. 5352(a).
 Rewrote the section.

9A:15-1.6 Higher Education Facilities Trust Fund Board

(a) The Higher Education Facilities Trust Fund Board shall consist of six members, as follows:

1. The Chair and Vice Chair of the Commission;
2. The State Treasurer or a designee;

3. The President of the Senate or a designee;
4. The Speaker of the General Assembly or a designee; and
5. The Executive Director who shall serve ex officio without vote.

(b) The Higher Education Facilities Trust Fund Board shall ensure that the revenue provided to the trust fund is adequate to support the grants approved by the Commission.

(c) At the end of each three-year period following the effective date of the Amending Act (January 10, 1994), the Higher Education Facilities Trust Fund Board shall review, in consultation with the Commission, the physical plant needs of public and private institutions in the State and shall recommend to the Governor and Legislature a plan to increase, if necessary, the availability and uses of grants made from the trust fund.

Amended by R.1995 d.114, effective February 21, 1995.
 See: 26 N.J.R. 4879(a), 27 N.J.R. 683(a).