

**CHAPTER 10  
STUDENT LOAN AND COLLEGE  
SAVINGS PROGRAMS**

**Authority**

N.J.S.A. 18A:71A-1 et seq., 18A:71B-35 through 46, and 18A:71C-1 through 31, and 20 U.S.C. §§ 1071 et seq.

**Source and Effective Date**

R.2003 d.465, effective November 3, 2003.  
See: 35 N.J.R. 2770(b), 35 N.J.R. 5415(b).

**Chapter Expiration Date**

Chapter 10, Student Loan and College Savings Programs, expires on November 3, 2008.

**Chapter Historical Note**

Subchapter 7, Policy Governing New Jersey Better Educational Savings Trust (NJBEST) Program, was originally adopted as N.J.A.C. 9:9-8 by R.1998 d.4, effective January 5, 1998. See: 29 N.J.R. 4372(a), 30 N.J.R. 68(a).

Pursuant to Executive Order No. 66(1978), N.J.A.C. 9:9-8 was readopted by R.1998 d.385, effective June 30, 1998, and was recodified as N.J.A.C. 9A:10-7, Policy Governing New Jersey Better Educational Savings Trust (NJBEST) Program, effective August 3, 1998. See: 30 N.J.R. 1707(a), 30 N.J.R. 2908(a).

Chapter 10, Student Loan and College Savings Programs, was adopted as R.1998 d.385, effective August 3, 1998. See: 30 N.J.R. 1707(a), 30 N.J.R. 2908(a).

Subchapter 1, Roles and Relationship of NJHEAA and NJOSA, was repealed and Subchapter 1, Federal Family Education Loan Program: Policies and Procedures, was recodified from N.J.A.C. 9A:10-2 and Subchapter 2, Federal Family Education Loan Program: Policies and Procedures, was recodified as N.J.A.C. 9A:10-1 by R.2000 d.92, effective March 6, 2000. See: 31 N.J.R. 3900(a), 32 N.J.R. 805(a).

Chapter 10, Student Loan and College Savings Programs, was readopted as R.2003 d.465, effective November 3, 2003. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. FEDERAL FAMILY  
EDUCATION LOAN PROGRAM: POLICIES  
AND PROCEDURES**

**9A:10-1.1 Purpose**

The purpose of this subchapter is to provide guidance on the implementation of the Federal Family Education Loan Program (FFELP) in New Jersey, and in particular, on policies and procedures that reflect areas where the Federal Higher Education Act of 1965, as amended, and its implementing regulations permit guaranty agency discretion, areas that comply with State law, areas that reflect guaranty agency specific policies that differ in some way from the Common Manual, a national compilation of uniform FFELP policies, and, finally, areas that address services and operations not described or defined in Federal law.

**9A:10-1.2 Scope; Federal 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. §§ 1071 et seq., including all subsequent amendments and supplements, is hereby adopted as rules and incorporated within this subchapter. The part of the Code of Federal Regulations known as 34 CFR 682.100 et seq., as well as other parts of the Code of Federal Regulations that govern the FFELP, including all subsequent amendments and supplements are hereby adopted as rules and incorporated within this subchapter.

(b) These rules provide both an outline for the implementation of the FFEL Program in this State and detailed guidance on the areas described in N.J.A.C. 9A:10-1.1. These rules do not attempt to reproduce in full the extensive body of Federal law and regulation governing the FFELP; however, they do attempt to be consistent with Federal law. If any part of these rules is inconsistent with or in conflict with Federal law, that part shall be preempted by Federal law, but not affect the validity of the remaining parts of these rules.

Amended by R.2000 d.92, effective March 6, 2000.  
See: 31 N.J.R. 3900(a), 32 N.J.R. 805(a).  
In (b), changed N.J.A.C. reference.

**9A:10-1.3 Definitions**

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

“Authority” or “HESAA” means the Higher Education Student Assistance Authority, a State agency established whose purpose is the funding of access to postsecondary education, whether by loans, grants, scholarships or other means. The student assistance programs HESAA administers include the Federal Family Education Loan Program.

“Blanket Certificate of Loan Guaranty” means an insurance program agreement with the Secretary of the United States Department of Education under which the Authority may offer eligible lenders participating in the agency’s guaranty program a Blanket Certificate of Loan Guaranty that permits the lender to make FFELP loans without receiving prior approval from the Authority of individual loans.

“Cohort default rate” means the percentage of FFELP and Federal Direct Student Loan Program (FDSLSP) borrowers who default before the end of the Federal fiscal year following the Federal fiscal year in which they entered repayment on their loans. The United States Department of Education calculates this rate annually to determine the default experience of students who attended a particular school during a particular period of time.

“Commission” or “CHE” means the Commission on Higher Education, a State higher education policy-making agency presided over by a governing board, whose chairman is a member, ex officio, of the Authority. The Commission’s statutory responsibilities include final administrative decisions over institutional licensure and university status in this State.

“Common Manual: Unified Student Loan Policy” or “Common Manual” means a publication developed by guarantors in the FFELP that provides a detailed compilation of the policies adopted by guarantors participating in the FFELP, and is intended to be consistent with the Federal Higher Education Act of 1965, as amended, and its implementing regulations and subregulatory Federal guidance.

“CommonLine Network” or “NCHELP CommonLine Network” means a standardized electronic exchange of data intended to simplify the guaranteeing of FFELP loans. Participation in the CommonLine Network allows schools to transmit and receive certification and guarantee data in common file formats, which in turn allows application processing for multiple guarantors through a single school-based software package.

“Consolidation loan” means a new loan that discharges a previous loan or loans. Loan consolidation enables a borrower with several loans to obtain one loan with one repayment schedule, and with the exception of Health Education Assistance Loan (HEAL) Program loans consolidated, one interest rate.

“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 the Department of Education or the guaranty agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 270 days for a loan repayable in monthly installments; or 330 days for a loan repayable in less frequent installments.

“Default aversion assistance” means the activities of a guaranty agency that are designed to prevent a default by a borrower who is at least 60 days delinquent and that are directly related to providing collection assistance to the lender. This assistance is available on or after the October 7, 1998 effective date of the 1998 amendments to the Higher Education Act of 1965, as amended.

“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 status meets the definition of default.

“Federal Family Education Loan Program” or “FFELP” means the collective term for the Stafford Loan Program (both interest subsidized and unsubsidized), the Supplemental Loan for Students or SLS Program, the Parent Loan for Undergraduate Students or PLUS Program, and the Consolidation Loan Program. The FFELP is a Federal-state-private sector partnership. Financial institutions make FFELP loans with private capital, state-designated guaranty agencies such as the Authority provide first-line insurance (guarantees for the loans), and the Federal government, through the Federal Department of Education, provides subsidies for student borrowers along with backstop reinsurance and general program oversight and regulation.

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

“Free Application for Federal Student Aid” or “FAFSA” means the application used to apply for Federal and State financial aid including FFELP subsidized and unsubsidized Stafford loans.

“Guaranty agency” or “guarantor” means a nonprofit organization or state agency such as the Authority that has an agreement with the United States Secretary of the Department of Education to administer a loan guarantee program under the Higher Education Act of 1965, as amended. A guaranty agency’s functions include paying claims to lenders when students default on FFELP loans, provided the lenders satisfy Federal and Authority due diligence requirements.

“Lender” means an eligible lender as defined in section 435(d) of the Higher Education Act of 1965, as amended, that has an agreement with the Authority to participate in the FFEL Program established under the Authority.

“Lender of last resort” means a lender or the Authority that agrees to make a subsidized or unsubsidized Stafford loan to an otherwise eligible borrower who has been unable to find a lender willing to make a loan.

“Lender Reporting System (LaRS)” means the electronic version of the ED 799 form which lenders submit on a quarterly basis to report loan origination fees and lender fees relating to the disbursement of new FFELP loans,

claims for interest and special allowance benefits, and summarized loan activity information.

“Master Promissory Note” or “MPN” means a promissory note under which a borrower may receive loans for a single academic year or multiple academic years at institutions meeting United States Department of Education criteria in accordance with the Higher Education Act of 1965, as amended, 20 U.S.C. § 1087vv, and its implementing regulations 34 CFR 682 et seq.

“National Student Clearinghouse” means a nonprofit, industry-sponsored organization that accepts, processes, and shares student loan enrollment and deferment information with authorized FFELP participants.

“National Student Loan Data System” or “NSLDS” means a national database of information on Title IV, Higher Education Act student assistance, including, but not limited to, FFELP and Direct loans.

“Out-of-State lender” means a bank or lender that has a home state other than New Jersey. For purposes of this definition, “home state” means:

1. With respect to a national bank or lender, the state in which the main office is located; and
2. With respect to a state bank or lender, the state by which it is chartered.

“PLUS Loan” or “Federal PLUS Loan” means the Parent Loan for Undergraduate Students Loan. PLUS loans made on or before July 23, 1992 targeted parents of dependent undergraduate or graduate students. After July 23, 1992, the PLUS Loan Program targeted parents of dependent undergraduate students.

“Postsecondary Education Participants System (PEPS)” means the Office of Federal Student Aid (FSA) management information system of all organizations that have a role in administering student financial aid and other Higher Education Act programs. PEPS maintains eligibility, certification, demographic, financial, review, audit and default rate data about schools, lenders and guarantors participating in the Title IV programs.

“Preclaims assistance” means the collection assistance provided to a lender by a guarantor such as the Authority intended to supplement the lender’s efforts to prevent default on a borrower’s FFELP loan. This assistance is available prior to the October 7, 1998 effective date of the 1998 amendments to the Higher Education Act of 1965, as amended.

“Professional and occupational license” means the whole or part of any State agency permit, certificate, approval, registration, charter or similar form of permission to engage in a profession, trade, business or occupation and any notification required to be made to any State agency that a

profession, trade, business or occupation is being engaged in or is expected to be commenced; provided that "license" shall not include any original charter or certificate of incorporation granted by any State agency.

1. For purposes of this definition, "State agency" means the legislative or executive branch of the State, including, but not limited to, any department, board, bureau, commission, division, office, council, agency, or instrumentality thereof, or independent agency, public authority or public benefit corporation.

"Servicer" means a third party with whom a FFEL Program participant, such as a lender, school, or guarantor, has entered into a contract, to administer any aspect of its participation in the FFEL Program. A servicer may also be defined as a "third-party servicer" under FFEL Program regulations, 34 CFR Part 682.

"SLS Loan" or "Federal SLS Loan" means the Supplemental Loans for Students Program, which was targeted for independent undergraduate students, graduate students, and dependent undergraduates whose parents were unable to obtain a PLUS loan. All SLS loans were made before July 1, 1994.

"Stafford Loan" or "Federal Stafford Loan" means a loan program that includes subsidized and unsubsidized loans. A subsidized Federal Stafford Loan is a guaranteed loan on which the Federal government pays the interest while the borrower is in school and during any period of authorized deferment. An unsubsidized Federal Stafford Loan is a guaranteed loan on which the borrower is responsible for paying the interest.

(b) Terms not defined in this section shall be defined in accordance with the Higher Education Act of 1965, as amended, and its implementing regulations.

Amended by R.2000 d.92. effective March 6, 2000.  
See: 31 N.J.R. 3900(a), 32 N.J.R. 805(a).

In (a), rewrote "Authority" or "NJHEAA" as "Authority" or "HE-SAA", inserted "Blanket Certificate of Loan Guaranty", "Default aversion assistance", "Free Application for Federal Student Aid" or "FAFSA" and "Master Promissory Note" or "MPN", substituted a reference to 270 days for a reference to 180 days and substituted a reference to 330 days for a reference to 240 days in "Default", inserted a reference to unsubsidized Stafford loans and deleted a former second sentence in "Lender of last resort", and added a second sentence in "Preclaims assistance".

Amended by R.2003 d.465. effective December 1, 2003.  
See: 35 N.J.R. 2770(b), 35 N.J.R. 5415(b).

Rewrote (a).

#### 9A:10-1.4 Role of the Authority as guaranty agency

(a) As the State-designated guaranty agency for the State of New Jersey, the Authority shall perform the functions required for the administration of the FFEL Program under the Higher Education Act of 1965, as amended, and its implementing regulations and rules. Key guarantor functions shall include, but not be limited to, the functions set forth in (b) below.

(b) Key guarantor functions are:

1. Financial aid awareness and related outreach activities: The Authority provides a toll-free number and web site with information on colleges, careers and financing of higher education. The Authority makes presentations about financial aid opportunities at high schools and other sites, holds workshops for high school guidance counselors, and publishes materials on all of the above topics;

2. Access to loans: The Authority furthers access to loans by providing lenders with a guarantee against default, since students generally have no credit history or collateral and pose a risk to lenders absent such guarantee;

3. Application processing: The Authority validates application information on FFELP promissory notes submitted for guarantee by using information such as the Authority database of information provided by borrowers, schools, and lenders;

4. Loan status management: The Authority assists borrowers, schools, and lenders by providing information on loan accounts and borrower status;

5. Counseling borrowers about their loan obligations: The Authority provides information to borrowers directly and to borrowers through their schools on the loan process, such as loan availability, debt loads, and repayment options;

6. Default prevention: The Authority works with lenders, schools, and students to prevent defaults. The Authority provides default aversion assistance to lenders to help prevent delinquent borrowers from defaulting on their loans;

7. Payment of lender claims for insurance: When a loan goes into default, and a lender submits a claim for purchase by the Authority, the Authority reviews the claim for legitimacy, and verifies that the lender has complied with Federal and Authority requirements for preventing the default;

8. Collection on defaulted loans: If the Authority finds that lender default prevention or "due diligence" requirements are met and the Authority buys the loan from the lender, the Authority pursues a variety of efforts to collect on the debt, such as wage garnishment, offset of State and Federal income tax refunds, property tax rebates or other governmental payments, suspension of occupational and professional license and State lottery prize offset. This collection process is carried out in a manner designed to provide the borrower with reasonable and affordable repayment options based on the borrower's income and ability to pay;

9. School and lender training and oversight: The Authority reviews, interprets, and disseminates information to schools and lenders about the requirements of the FFELP regulations and Federal subregulatory guidance (for example, Dear Colleague Letters from the United States Department of Education);

10. Maintaining and reporting of FFEL Program records: The Authority contributes to initiatives to protect the fiscal interest of the United States Department of Education and United States taxpayers by maintaining accurate records of the Authority's FFEL Program participants and reporting FFEL Program data to national databases, such as NSLDS; and

11. Other student financial aid related activities for the benefit of students, as selected by the Authority.

Amended by R.2000 d.92, effective March 6, 2000.

See: 31 N.J.R. 3900(a), 32 N.J.R. 805(a).

Rewrote (b).

Amended by R.2003 d.465, effective December 1, 2003.

See: 35 N.J.R. 2770(b), 35 N.J.R. 5415(b).

In (b), rewrote 3, deleted (collection assistance) following "aversion assistance" in 6 and rewrote the first sentence in 8.

#### 9A:10-1.5 Authority as lender and secondary market

(a) The Authority, which qualifies as an eligible lender under the Higher Education Act of 1965, as amended, may serve as the State-designated lender of Federally guaranteed student and parent educational loans.

(b) The Authority, which is permitted to buy and sell notes evidencing loans as well as buy and sell participations in approved notes made under N.J.S.A. 18A:71A-1 et seq., may serve as the State-designated secondary market for Federally guaranteed student and parent educational loans and any other loans made under N.J.S.A. 18A:71A-1 et seq.

Amended by R.2000 d.92, effective March 6, 2000.

See: 31 N.J.R. 3900(a), 32 N.J.R. 805(a).

In (b), changed N.J.S.A. references.

#### 9A:10-1.6 Types of FFELP loans

(a) A subsidized Federal Stafford loan is available to an eligible student attending a participating postsecondary school. A student who demonstrates financial need is eligible to have the Federal government pay the interest on the loan to the lender until repayment of the loan begins and during any deferment periods. The student is allowed a grace period (usually six months) after leaving school or dropping below half-time attendance before repayment begins. Repayment of the loan is scheduled over a maximum 10-year period according to the payment plan chosen by the borrower, except that borrowers qualifying under section 428(b)(9) of the Higher Education Act of 1965, as amended (20 U.S.C. § 1078(b)(9)), may select a repayment plan with up to a 25-year maximum repayment period.

(b) An unsubsidized Federal Stafford loan is available to an eligible student attending a participating postsecondary

school. A student who does not demonstrate sufficient financial need is typically eligible for an unsubsidized Stafford loan. An unsubsidized Stafford loan borrower does not have any interest paid on his or her behalf by the Federal government; such a borrower is responsible for paying to the lender all interest that accrues on the loan from the time the loan is disbursed until it is paid in full. Otherwise, the terms of an unsubsidized Stafford loan are the same as those for a subsidized Stafford loan.

(c) A Federal PLUS loan is available to an eligible parent (as defined in 34 CFR 682.201(b)(2)) of a dependent undergraduate student attending a participating postsecondary school. A PLUS loan borrower must not have adverse credit or otherwise must obtain an endorser on the loan. The parent is responsible for paying to the lender the interest that accrues on the loan from the time the loan is disbursed until it is paid in full. Repayment of the loan is scheduled over a maximum 10-year period according to the payment plan chosen by the borrower, except that borrowers qualifying under section 428(b)(9) of the Higher Education Act of 1965, as amended (20 U.S.C. § 1078(b)(9)), may select a repayment plan with up to a 25-year maximum repayment period.

(d) A Federal Consolidation loan is available to a borrower who wants to combine his or her outstanding education loans into a single loan with a single monthly payment. In most cases, the borrower is responsible for paying to the lender the interest that accrues on the loan until the loan is paid in full. Consolidation loans usually have a longer repayment period and a lower monthly payment than is available on the underlying education loans.

Amended by R.2000 d.92, effective March 6, 2000.

See: 31 N.J.R. 3900(a), 32 N.J.R. 805(a).

In (a) and (c), rewrote the last sentences.

Amended by R.2003 d.465, effective December 1, 2003.

See: 35 N.J.R. 2770(b), 35 N.J.R. 5415(b).

In (c), substituted "(as defined in 34 C.F.R. 682.201(b)(2))" for "or legal guardian" following "eligible parent".

#### 9A:10-1.7 Lender participation and lender of last resort

(a) To participate in any of the loan programs for which the Authority serves as guarantor, a lender is required to submit evidence acceptable to the Authority that it is an eligible lender under the Higher Education Act of 1965, as amended. If the Authority is satisfied that a lender meets the requirements for eligibility and participation under the Higher Education Act of 1965, as amended, the Authority may offer a participation agreement to that lender. A lender cannot participate in the Authority's programs without a participation agreement with the Authority. There are three principal types of Authority participation agreements: a participation agreement for lenders originating Stafford and PLUS loans, a participation agreement for lenders serving as secondary markets or holders of Stafford and PLUS loans, and a participation agreement for lenders originating Consolidation loans. The borrower eligibility criteria incor-

porated in participation agreements for lenders originating Consolidation loans is set forth in N.J.A.C. 9A:10-1.16(c).

(b) The Authority shall ensure that it or a participating lender shall serve as lender of last resort in the State of New Jersey. The lender of last resort shall make a subsidized or unsubsidized Stafford loan to an otherwise eligible borrower who has been unable to find a lender willing to make a loan and who satisfies both the Federal regulatory criteria for eligibility and any further eligibility criteria provided in the lender of last resort policies and procedures cited in 34 CFR 682.401(c).

Amended by R.2000 d.92, effective March 6, 2000.  
See: 31 N.J.R. 3900(a), 32 N.J.R. 805(a).

In (a), changed N.J.A.C. reference; and in (b), inserted a reference to unsubsidized Stafford loans in the second sentence, and deleted a former third sentence.

#### 9A:10-1.8 School participation

(a) To participate in any Title IV, Higher Education Act program, a school must establish its eligibility under the Higher Education Act of 1965, as amended, by following the procedures specified by the United States Department of Education. Upon being approved to participate in Title IV programs by the United States Department of Education, a school becomes eligible to apply for participation in the FFELP with the guarantor, such as the Authority. For any school, the Authority must be satisfied that the school has the ability to properly administer the FFELP according to Federal regulations and this chapter before it will approve the school for participation under its guarantee. To maintain its eligibility to participate, a school shall continue to meet all school eligibility requirements and must administer its loan programs in accordance with all requirements set forth in Federal law and regulations, as well as this chapter. If a school ceases to meet any Title IV eligibility requirement, the school must immediately provide written notice to the United States Department of Education and the Authority, if the Authority is the applicable guarantor.

(b) Both the Authority and the United States Department of Education require, as a condition of administrative capability, as defined under Federal regulations, that a school designate a capable individual to administer the FFEL Program and to coordinate the FFEL Program with the school's other Federal and non-Federal aid programs. The school shall ensure that an adequate number of qualified personnel are available to administer the loan programs, as provided in Federal regulations.

(c) To assist a school's financial aid administrator and staff in participating in the FFELP, the Authority shall in general provide assistance to institutions comparable to the kinds of assistance provided to institutions by the United States Department of Education. This assistance may include, but not be limited to, sponsoring of training conferences, participating in State, regional and national associations of financial aid administrators, issuing a periodic newsletter, staffing a customer assistance unit (including a toll-free hotline), and offering an internet website.

(d) A school shall develop procedures to ensure that student status changes are reported correctly and in a timely manner to the Authority, to NSLDS, to the lender or to all three, as appropriate. Some schools may elect to satisfy this requirement through participation in the National Student Clearinghouse or another entity providing student status reporting services in which the Authority participates. For schools not yet providing student status information to NSLDS, the Authority shall provide a school, on at least a semiannual basis, with a Student Status Confirmation Report (SSCR) listing all students for whom FFELP loans have been obtained for attendance at the school. NSLDS distributes SSCR data to the Authority and other guarantors, and guarantors notify lenders of student status changes. Information and instructions on completing rosters for student status reporting to NSLDS are provided to schools by the United States Department of Education.

(e) A school shall be required to maintain FFELP records in the manner and for the retention period required by 34 CFR parts 668 and 682. Because the Federal regulations permit records to be retained longer than required by Federal regulations, a school shall be required to maintain FFELP records for the retention period required by State law, if State retention periods exceed Federal.

Amended by R.2000 d.92, effective March 6, 2000.  
See: 31 N.J.R. 3900(a), 32 N.J.R. 805(a).

In (c), rewrote the first sentence.

Amended by R.2003 d.465, effective December 1, 2003.  
See: 35 N.J.R. 2770(b), 35 N.J.R. 5415(b).

In (c), substituted "issuing a periodic newsletter" for "publishing a monthly newsletter" following "regional and national associations of financial aid administrators"; in (d), deleted "Loan" preceding "Clearinghouse" in the second sentence.

#### 9A:10-1.9 Borrower eligibility and loan certification

(a) A borrower may request an application and promissory note for a Stafford or PLUS loan from the school, the lender, or the Authority. The FAFSA is the application used for FFELP subsidized and unsubsidized Stafford loans and the Master Promissory Note is the promissory note used by borrowers for attendance at four-year schools, graduate/professional schools, and other institutions meeting United States Department of Education criteria in accordance with the Higher Education Act of 1965, as amended, 20 U.S.C. § 1087vv, and its implementing regulations 34 CFR 682 et seq. Schools authorized for multi-year use of the MPN are required to develop and document a confirmation process along with the FFELP lender to ensure that the borrower wants subsequent loans. The Authority imposes no guarantor specific policies or procedures for determining eligibility for a Stafford or PLUS loan. Borrower and student eligibility requirements are set forth in 34 CFR parts 668 and 682, and further explained in the Common Manual.

Amended by R.2000 d.92, effective March 6, 2000.

See: 31 N.J.R. 3900(a), 32 N.J.R. 805(a).

Rewrote the section.

Amended by R.2003 d.465, effective December 1, 2003.

See: 35 N.J.R. 2770(b), 35 N.J.R. 5415(b).

Rewrote the third sentence.

**9A:10-1.18 Authority guaranty agency enforcement requirements: program reviews**

(a) The Authority is required by FFELP regulations, 34 CFR part 682, to conduct comprehensive biennial program reviews of certain schools and lenders participating in the FFELP. Program reviews are conducted to assess the administrative and financial capability of schools and lenders with applicable requirements of the FFELP. These requirements are those of the Higher Education Act of 1965, as amended, the Federal regulations (34 CFR parts 600, 668, and 682), and Authority policies and procedures. The Authority may elect to review third-party servicers of schools and lenders. The Authority may also elect to review other agents, such as special counsel performing litigation on defaulted FFELP loans. If the Authority elects to review third-party servicers, it shall follow the program review process for servicers outlined in the Common Manual.

(b) The Authority shall perform a biennial program review of each school in any state in which the Authority is the primary guarantor that has had a cohort default rate exceeding 20 percent for either of the two most recent years for which rates have been calculated. A school shall be exempted from review if it meets the loan volume limit on the default reduction measures outlined in 34 CFR 682.410(c). The Authority may request that the United States Department of Education approve substitutions to its list of required school reviews. In addition to the Federal criteria used in selecting schools for review, the Authority may consider other factors, such as those listed in the Common Manual. These other factors are: loan volume trends, significant increases in cumulative or cohort default rates, evidence of regulatory violations, evidence of potential fraud or abuse in its FFELP participation, evidence that the school has been placed on the Pell reimbursement system for payment, complaints from lenders, borrowers, or students, evidence that the school has failed to adequately address deficiencies identified in prior program reviews, evidence that the school has failed to implement improvements to reverse negative financial trends, and weaknesses identified during the process by which schools first obtain FFELP eligibility.

(c) The Authority shall perform a biennial program review of each participating lender whose dollar volume of FFELP loans made or held by the lender and guaranteed by the Authority in the preceding year meet one or more of the volume criteria set forth in 34 CFR 682.410(c). The Authority may request that the United States Department of Education approve substitutions to its list of required lender reviews. In addition to the Federal criteria used in selecting lenders for review, the Authority may consider other factors, such as those listed in the Common Manual. These other factors are: loan volume trends, significant increases in cumulative or cohort default rates, evidence of regulatory violations, evidence of potential fraud or abuse in its FFELP participation, and complaints from schools, students, or borrowers. The Authority may conduct compliance reviews in other areas of lender administration as long as, at a minimum, the scope includes NSLDS reconciliation.

(d) A program review begins when the school or lender is selected for review and ends when the Authority accepts a satisfactory response to the review findings from the school or lender and all close-out procedures are completed. The program review consists of four phases: the preliminary review, the on-site review, the issuance of a program review report, and the review close-out.

(e) Preparation for the review is as follows:

1. The Authority shall notify the school or lender to be reviewed, provide the date(s) of the on-site review, and request administrative and financial information related to the entity's eligibility and participation in the FFELP. Prior to the on-site review, the Authority shall develop a profile of the school or lender from data maintained by the Authority. For lenders, this data includes loan volume, student populations and sample, and lender search report. For schools, this data includes Stafford and PLUS loan volume for the period, training attendance record, and borrower complaints, if any. The Authority may also require the school or lender to complete a questionnaire on internal control procedures and policies related to its administration of the FFELP.

2. The administrative and financial information normally required for the on-site visit includes, but is not limited to, the following for schools: school catalog, documentation from prior program reviews, independent audit results, student financial aid audit results, audited financial statements, program participation agreement, accreditation reports or certification, State licensing documentation, default management plan, if applicable, and individual borrower files. For lenders, this information includes, but is not limited to, FFELP lending policies, documentation from prior program reviews, independent audit results, information from the United States Department of Education Lender Reporting System (LaRS), documentation of loan transfers, and individual borrower files.

(f) The Authority shall provide the school or lender the opportunity to present questions or supply additional information. The school or lender being reviewed shall cooperate with Authority reviewers by making staff available to reviewers at entrance and exit interviews and by supplying additional material to reviewers if requested during the on-site visit.

(g) Program review follow up and other enforcement procedures are as follows:

1. The Authority shall issue a program review report to the school or lender being reviewed.
2. The program review ends when all required actions are completed and all liabilities are paid by the school or lender being reviewed.
3. When the program review ends, the Authority shall notify the school or lender in writing that the program review is closed. The Authority shall also update the Postsecondary Education Participants System (PEPS) database. The Authority shall at the same time notify the United States Department of Education that the program review is closed.
4. If the Authority is unable to close a program review because the school or lender is uncooperative in taking the required corrective action, the Authority shall refer the case to the United States Department of Education.
5. The Authority may pursue a limitation, suspension, or termination action regarding participation in the FFELP as a result of a program review. The limitation, suspension, and termination process for lenders and schools is set forth in 34 CFR 682.700, Subpart G.
6. If potential fraud or abuse with respect to FFELP participation is identified during a program review, the Authority reviewers shall be obligated to notify and forward all supporting documentation to the United States Department of Education's Office of Inspector General. The Authority shall also be obligated to comply with other applicable enforcement requirements set forth in 34 CFR 682.410(c).

Amended by R.2000 d.92, effective March 6, 2000.

See: 31 N.J.R. 3900(a), 32 N.J.R. 805(a).

In (c), added the fifth through seventh sentences.

Amended by R.2003 d.465, effective December 1, 2003.

See: 35 N.J.R. 2770(b), 35 N.J.R. 5415(b).

Deleted references to chapter 11.2 throughout; in (a), deleted "collection" preceding "litigation" in the third sentence; rewrote (c), (e) and (g).

## SUBCHAPTERS 2 THROUGH 5. (RESERVED)

### SUBCHAPTER 6. THE NEW JERSEY COLLEGE LOANS TO ASSIST STATE STUDENTS (NJCLASS) PROGRAM: POLICIES AND PROCEDURES

#### 9A:10-6.1 Purpose

The purpose of this subchapter is to provide guidance on the implementation of the New Jersey College Loans to Assist State Students (NJCLASS) Program, a State student loan program intended to supplement the subsidized Federal Stafford Loan Program and make State sponsored student loans available to students who cannot obtain Federally backed student loans, either because those loans are not available, because the student does not meet the program eligibility requirements as defined by the Federal government, or because the student has additional financial need unmet by Federally backed student loans. In the NJCLASS Program, the Authority issues bonds, notes, or another form of debt instrument, and with the proceeds of that issuance, funds student loans and either directly or through an agent serves as lender and servicer of the loans. Because funding for the NJCLASS Program is not backed by a Federal guarantee, funding sources are safeguarded by requiring as key elements of borrower eligibility for this State program that the borrower either be creditworthy or not have adverse credit.

#### 9A:10-6.2 Scope

These rules provide the policies and procedures that govern the NJCLASS Program, a State student loan program administered by the Higher Education Student Assistance Authority (HESAA). The Authority also publishes an NJCLASS policies and procedures manual for participating schools, which provides detailed guidance on the operation of the NJCLASS Program.

Amended by R.2000 d.447, effective November 6, 2000.

See: 32 N.J.R. 2192(a), 32 N.J.R. 3987(a).

Substituted "Higher Education Student Assistance Authority (HESAA)" for "New Jersey Office of Student Assistance (NJOSA) and established under the Authority" in the first sentence.

#### 9A:10-6.3 Definitions

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