

**CHAPTER 11**

**EDUCATIONAL OPPORTUNITY FUND:  
ADMINISTRATIVE PROCEDURES  
AND POLICIES**

**Authority**

N.J.S.A. 18A:71-28 et seq. and 18A:71-33 through 36.

**Source and Effective Date**

R.2009 d.187, effective May 13, 2009.  
See: 40 N.J.R. 6365(a), 41 N.J.R. 2471(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, expires on May 13, 2016. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 11, Administrative Procedures and Policies, was filed and became effective prior to September 1, 1969.

Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, was adopted as emergency new rules by R.1973 d.121, effective May 2, 1973. See: 5 N.J.R. 188(b).

Subchapter 2 was repealed by R.1978 d.201, effective for the academic year beginning the fall of 1978. See: 9 N.J.R. 570(a), 10 N.J.R. 281(d).

Pursuant to Executive Order No. 66(1978), Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, was readopted as R.1983 d.646, effective January 18, 1984. See: 15 N.J.R. 1428(a), 16 N.J.R. 143(b).

Subchapter 2, Martin Luther King Physician-Dentist Scholarship Program, was adopted as new rules by R.1988 d.153, effective April 4, 1988. See: 19 N.J.R. 2374(a), 20 N.J.R. 807(b).

Pursuant to Executive Order No. 66(1978), Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, expired on January 18, 1989.

Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, was adopted as new rules by R.1989 d.222, effective April 17, 1989. See: 20 N.J.R. 2506(a), 21 N.J.R. 1012(a).

Subchapter 3, C. Clyde Ferguson Law Scholarship, was adopted as new rules by R.1991 d.306, effective June 17, 1991. See: 22 N.J.R. 3439(a), 23 N.J.R. 1944(a).

Pursuant to Executive Order No. 66(1978), Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, consisting of Subchapter 1, Undergraduate Financial EOF Assistance, was readopted as R.1994 d.226, effective April 11, 1994. See: 26 N.J.R. 711(a), 26 N.J.R. 1857(a).

Pursuant to Executive Order No. 66(1978), Subchapter 2, Martin Luther King Physician-Dentist Scholarship Program and Subchapter 3, C. Clyde Ferguson Law Scholarship, expired on April 17, 1994.

Subchapter 2, Graduate EOF Financial Eligibility, Subchapter 3, C. Clyde Ferguson Law Scholarship, and Subchapter 4, Martin Luther King Physician-Dentist Scholarship Program, were adopted as new rules by R.1994 d.452, effective September 6, 1994. See: 26 N.J.R. 1932(a), 26 N.J.R. 3722(a).

Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, was recodified as N.J.A.C. 9A:11 by R.1995 d.248, effective May 15, 1995. See: 27 N.J.R. 812(a), 27 N.J.R. 1993(a).

Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, was repealed and Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, was adopted as new rules by R.1999 d.46, effective February 1, 1999. See: 30 N.J.R. 3771(a), 31 N.J.R. 420(a).

Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, was readopted as R.2004 d.161, effective March 25, 2004. See: 35 N.J.R. 5533(a), 36 N.J.R. 1919(b).

Chapter 11, Educational Opportunity Fund: Administrative Procedures and Policies, was readopted as R.2009 d.187, effective May 13, 2009. As a part of R.2009 d.187, Subchapter 2, Undergraduate EOF Financial Eligibility, was renamed Undergraduate EOF Academic and Financial Eligibility, effective June 15, 2009. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. AUTHORITY, MISSION AND SCOPE**

**9A:11-1.1 Authority**

(a) Under the general supervision of the Commission on Higher Education, the Educational Opportunity Fund Board of Directors creates and adopts such rules deemed necessary for the proper administration of the Educational Opportunity Fund (EOF), as set forth in N.J.S.A. 18A:71-31. The Board administers all Article III, Article IV, C. Clyde Ferguson Law Scholarship, and Martin Luther King Physician-Dentist Scholarship funds appropriated by the State Legislature and other public or private sources and is an agency of communication with departments and agencies of the U.S. government on the availability of grants or loans to New Jersey for purposes related or similar to those set forth in N.J.S.A. 18A:71-28 through 40 and 18A:72J. Through the Commission on Higher Education, the Board of Directors is

responsible and reports periodically in writing to the Governor and the Legislature on the performance of its duties in accordance with the law.

(b) Pursuant to N.J.S.A. 18A:71-28 through 40 and 18A:72J-1 et seq., the Board of Directors shall identify, recruit, and provide financial assistance to needy students who are residents of New Jersey in order that they may attend institutions of higher education. The Board is authorized to determine and promulgate standards of eligibility and award undergraduate and graduate "opportunity grants," C. Clyde Ferguson Law Scholarships, and Martin Luther King Physician-Dentist Scholarships to students attending institutions of collegiate grade that are licensed by the New Jersey Commission on Higher Education and accredited by an accrediting body recognized by the U.S. Secretary of Education. The Board shall also develop, establish, and maintain programs of remedial and supplementary education for eligible students to be administered either directly or through cooperative ventures with any or all of these institutions.

Amended by R.2004 d.161, effective April 19, 2004.  
See: 35 N.J.R. 5533(a), 36 N.J.R. 1919(b).

In (b), amended the N.J.S.A. reference in the first sentence, substituted "that are licensed by the New Jersey Commission on Higher Education and accredited by the accrediting body recognized by the U.S. Secretary of Education" for "located and approved in New Jersey" in the second sentence, and substituted "these institutions" for "the public and private institutions of higher education in the State" in the third sentence.

**9A:11-1.2 Definitions**

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

"Ability to benefit" means the provisions under which a student who has neither a high school diploma nor its recognized equivalent may become eligible to receive Federal Title IV, Higher Education Assistance funds and the procedures and conditions under which the Federal Secretary of Education determines that a state or institutional process demonstrates that students pursuing that course of action will benefit from the education and training being offered them.

"Allocation" means the distribution of the annual appropriation to support campus programs and student grants approved by the EOF Board of Directors in the following funding categories: Summer Program Article III undergraduate, Academic Year Article III undergraduate, Academic Year Article III graduate, Academic Year Article IV, any special project funding during the summer or academic year from either Article III or Article IV, Ferguson and King Scholarships.

"Article III" means a New Jersey Educational Opportunity Fund undergraduate or graduate student financial aid grant awarded to an eligible student for the academic year or summer session, or funds used to support the summer program. It is also referred to as Opportunity Grants.

“Article IV” means a New Jersey Educational Opportunity Fund academic year or summer grant allocated to a participating New Jersey college or university to provide program support services to EOF-eligible students. It is also referred to as Supplemental Opportunity Grants.

“Board” means the New Jersey Educational Opportunity Fund Board of Directors, which is appointed by the Governor; sets policy; approves all necessary rules for program operation and student eligibility for Article III academic year and summer session, undergraduate and graduate student grants, academic year and summer program Article IV support funds, C. Clyde Ferguson Law Scholarship, and the Martin Luther King Physician-Dentist Scholarship; develops the annual budget request for the Statewide program; and supports EOF programs at public and independent colleges and universities.

“Budgeted contract” means the fiscal year contract signed by the EOF Executive Director and the president of the participating institution.

“Campus EOF administrator/director” means the individual at a New Jersey institution of higher education directly responsible for the overall administration of the Educational Opportunity Fund (EOF) program at that particular college or university campus.

“Commission” means the New Jersey Commission on Higher Education, which is the State-level planning and coordinating agency for higher education in New Jersey.

“Commission/EOF” means the New Jersey Educational Opportunity Fund Program’s central office, located within the New Jersey Commission on Higher Education.

“District Factor Group (DFG)” means an indicator of the socioeconomic status of citizens in each New Jersey school district. The New Jersey Department of Education uses this measure for the comparative reporting of test results from New Jersey’s Statewide testing programs. The indicators use demographic variables from the most recent U.S. census data, and school districts are ranked and divided into alphabetical groups. The groups range from “A” (lowest socioeconomic districts) to “J” (highest socioeconomic districts).

“Eligible urban aid municipality” means a New Jersey municipality that has been authorized to participate in programs administered by the New Jersey Redevelopment Authority.

“EOF” means the New Jersey Educational Opportunity Fund Program.

“EOF equity index” means the ratio of the EOF cohort graduation rate to the overall institutional cohort graduation rate.

“EOF Executive Director” means the chief executive officer of the New Jersey Educational Opportunity Fund Program.

“EOF transfer student” means an undergraduate student who received an initial Article III student grant while earning their associate degree and wishes to pursue a baccalaureate degree at a New Jersey institution that participates in the EOF program, or a student who received an initial Article III student grant and wishes to complete their degree at a New Jersey institution other than the one where they received their initial Article III student grant.

“Federal poverty guidelines” means the family poverty thresholds established annually by the United States Department of Health and Human Services.

“Ferguson Scholarship” means the C. Clyde Ferguson Law Scholarship program.

“First-generation college student” means an applicant whose parents or parent (in the case of an applicant who regularly resided with and received support from only one parent) did not complete a baccalaureate degree.

“First-time part-time entering student” means a student who has no prior college experience and is advised by institutional EOF staff to enroll for a minimum of six credits but no more than 11 credits.

“Fund” means the New Jersey Educational Opportunity Fund Program.

“High-distress area” means an area in New Jersey characterized by low or substandard housing and/or low real estate value, low per capita income, high unemployment, population decline, and a high percentage of residents receiving welfare and other benefits targeted for low-income families.

“Historical poverty code” means the code assigned to the six criteria students can use to demonstrate a history of poverty, that must be entered into the New Jersey student grant payment system to process an institution’s request for an initial academic year Article III undergraduate EOF student grant.

“Initial student” means a student who is receiving an Article III EOF undergraduate or graduate student grant for the first time. The term “initial” is not synonymous with the word “freshman,” nor does it imply that the student is in his or her first year of college attendance.

“King Scholarship” means the Martin Luther King Physician-Dentist Scholarship program.

“Labor surplus area,” as defined by the New Jersey Department of Labor and the U.S. Bureau of Labor Statistics, is an area with an unemployment rate of at least 20 percent above the national average for the previous two calendar years. These areas also are eligible for Federal programs designed to provide assistance to impoverished, disadvantaged communities undergoing serious economic problems.

“Master contract” means an annual agreement entered between the Commission on Higher Education and individual

New Jersey institutions of higher education specifying the contractual terms and conditions under which the Commission shall provide funds specified under the applicable project contract to the contractor.

“Need” means the difference between the total educational expenses to attend a particular college and what a student or student’s family is expected to contribute towards meeting those costs based on methodology contained in Federal Title IV of the Higher Education Act of 1965, P.L. 89-329, including all subsequent amendments and supplements.

“New Jersey College Bound Grant Program” means a precollege educational enrichment program designed to help ensure completion of secondary school; to increase college admission, retention, and graduation rates of urban youth; and to encourage the successful pursuit of postsecondary education in the science, mathematics, or technology that was funded by the New Jersey Commission on Higher Education.

“NJ GEAR UP state project” means any Federally funded New Jersey state project administered by the Commission under the Gaining Early Awareness and Readiness for Undergraduate Programs.

“NJ GEAR UP/NJ College Bound grant program support-services-only (NJGEARUP/NJ College Bound/SSO) student” refers to an NJ GEAR UP state project and/or NJ College Bound grant program graduate enrolled in college through the Fund who is unable to demonstrate financial eligibility for an initial Article III student grant.

“PAB” means the Program Advisory Board appointed by institutions participating in the Fund.

“Part-time student” means a student who is enrolled for a minimum of six credits but no more than 11 credits.

“Participating institution” means a New Jersey institution of higher education that is licensed by the New Jersey Commission on Higher Education and accredited by an accrediting body recognized by the U.S. Secretary of Education and which has entered into a contractual relationship with the Board to provide an EOF undergraduate, graduate, and/or summer program for eligible students.

“Readmitted student” means an EOF renewal student who did not receive an EOF Academic Year Article III grant the previous semester and is returning to the institutional EOF program where his or her last grant was received.

“Renewal student” means a student who previously has received an Article III EOF undergraduate or graduate student grant.

“Senior institution” means a baccalaureate (or higher) degree-granting college or university.

“TRIO programs” means the Federally funded grant programs Upward Bound, Talent Search, and Student Support Services.

Amended by R.2000 d.163, effective April 17, 2000.

See: 32 N.J.R. 156(a), 32 N.J.R. 1422(a).

Inserted “NJ GEAR UP state project” and “NJ GEAR UP support service only (NJ GEAR UP/SSO) student”.

Amended by R.2004 d.161, effective April 19, 2004.

See: 35 N.J.R. 5533(a), 36 N.J.R. 1919(b).

Inserted “Abbott school district”, “Early childhood program aid”, “Eligible urban aid municipality”, and “New Jersey College Bound Grant Program”; amended “Initial student”, “Participating institution” and “Renewal student”; deleted “Special needs school district”.

Amended by R.2005 d.84, effective March 7, 2005.

See: 36 N.J.R. 3621(a), 37 N.J.R. 773(a).

Rewrote “NJGEAR UP support service only (NJ GEARUP SSO) student”.

Amended by R.2009 d.187, effective June 15, 2009.

See: 40 N.J.R. 6365(a), 41 N.J.R. 2471(a).

Added definitions “Ability to benefit”, “EOF equity index”, “EOF transfer student”, “Federal poverty guidelines”, “Historical poverty code” and “Senior institution”; rewrote definition “Allocation”; in definition “Article III”, inserted “, or funds used to support the summer program” and the last sentence; in definition “Article IV”, inserted the last sentence; and deleted definitions “Costs” and “Opportunity grant”.

Amended by R.2011 d.145, effective June 6, 2011.

See: 42 N.J.R. 2690(a), 43 N.J.R. 1333(b).

Deleted definitions “Abbott school district” and “Early childhood program aid”; in definition “Allocation”, inserted “Program”, inserted a comma following the last two occurrences of “IV”, and deleted “Summer Article III graduate, Summer Article IV,” following the first occurrence of “Article III undergraduate”; and added definitions “First-time part-time entering student”, “Part-time student” and “Readmitted student”.

### 9A:11-1.3 EOF mission statement

The New Jersey Educational Opportunity Fund contributes to the development of a college-educated public that reflects the diversity of New Jersey. In partnership with New Jersey colleges and universities, the Fund provides access to higher education and support for highly motivated students who exhibit the potential for success, but who come from families/communities disadvantaged by low income and the lack of access to the quality educational preparation necessary to attend college. Through its partnership with participating institutions of higher education, the Fund seeks to maximize educational opportunities for EOF students by providing direct program services designed to promote persistence through degree completion. Accordingly, EOF supports innovative educational initiatives, supplemental instruction, support services, academic and educational advisement, and leadership development activities to improve the student’s chance of academic success. In concert with other sources of student financial assistance, the Fund also attempts to make college affordable for those students who find the costs of higher education an impediment to access and student persistence.

Amended by R.2009 d.187, effective June 15, 2009.

See: 40 N.J.R. 6365(a), 41 N.J.R. 2471(a).

Inserted “academic and educational advisement.”.

### 9A:11-1.4 Scope

(a) The rules in this chapter govern the awarding of Article III undergraduate EOF grants to students for study leading to approved certificates, associate degrees, and/or baccalaureate degrees, and the awarding of Article III graduate EOF grants

and Ferguson and King Scholarships for study leading to approved master's, doctoral and/or professional degrees. The rules also govern the development, administration, and maintenance of institutional programs of developmental and supplemental education for EOF students supported in part through Article III and Article IV funding in the summer and academic year.

(b) Institutions that participate in the EOF program shall not discriminate in their recruitment and admissions practices based on race, age, creed, religion, marital status, national origin, color, gender, sexual orientation or disability.

Amended by R.2009 d.187, effective June 15, 2009.

See: 40 N.J.R. 6365(a), 41 N.J.R. 2471(a).

In (a), substituted "developmental" for "remedial" and inserted "Article III and"; and in (b), inserted "recruitment and" and substituted "practices" for "decisions".

## SUBCHAPTER 2. UNDERGRADUATE EOF ACADEMIC AND FINANCIAL ELIGIBILITY

### 9A:11-2.1 Scope

This subchapter governs the awarding of Article III undergraduate EOF grants. The Article III undergraduate EOF grant is not a financial aid entitlement. Institutions select students for participation based on the eligibility criteria in N.J.A.C. 9A:11-2.2 and 2.3.

Amended by R.2009 d.187, effective June 15, 2009.

See: 40 N.J.R. 6365(a), 41 N.J.R. 2471(a).

Updated the second N.J.A.C. reference.

### 9A:11-2.2 Student eligibility

(a) The undergraduate EOF Program is designed to provide an opportunity for higher education to disadvantaged New Jersey residents who would be unable to attend and/or succeed academically in college without the financial assistance and special services that are part of this program. The program is intended for students who show potential and exhibit evidence of academic and/or creative promise but who have limited educational and financial resources for college because of poor high school preparation and have economic backgrounds that reflect a history of poverty.

(b) To be eligible for an undergraduate EOF grant, a student must demonstrate a history of poverty, which generally includes documented, long-term economic hardship of the family, such as little or no accumulation of assets and the inability to provide more than the basic needs of family members, as evidenced by at least one of the following:

1. Having attended or graduated from a DFG A or B school district;
2. Having resided in a municipality that is a high-distress/labor surplus area, or is considered an eligible urban aid municipality;

3. Having resided in an area that historically has been populated by low-income families; such an area, commonly called a "pocket of poverty," has characteristics of a high-distress/labor surplus area, even if the municipality is not formally so identified;

4. Having a sibling who was or is enrolled in an EOF program;

5. Being a first-generation college student who is, or whose family is, eligible for government assistance and/or educational programs targeted toward low-income and disadvantaged populations (TRIO programs, free and reduced breakfast/lunch programs, food stamps); or

6. Having successfully completed an NJ GEAR UP state project or NJ College Bound grant program.

(c) The admitting institution determines eligibility for EOF pursuant to N.J.A.C. 9A:11-4.6, Criteria for admission, at the time of a student's initial application. The institution, in the context of its own selectivity, shall make and document a broad assessment of the student's motivation and talent (latent, as well as demonstrated) based on interviews, recommendations, high school records, and other requisite application materials.

(d) To be initially eligible for an EOF undergraduate Article III grant, a student must demonstrate that he or she:

1. Has a high school diploma or GED or demonstrates an "ability to benefit";

2. Meets N.J.A.C. 9A:9-2.2 and 2.3, which are the Tuition Aid Grant and Garden State Scholarship programs' rules governing residency, and noncitizens and resident aliens, respectively;

3. Meets the financial criteria established in N.J.A.C. 9A:11-2.3;

4. Is or will be a full-time student as defined by the institution offering the undergraduate program of study unless the institution has received approval under N.J.A.C. 9A:11-2.9(b) to award grants to part-time students; and

5. Is admitted to and intends full-time enrollment and matriculation in a curriculum leading to an undergraduate degree or certificate at an institution participating in the Fund. Degree and certificate programs shall require a minimum of 24 semester hours or the equivalent and be at least one academic year in duration. The Fund is not intended for a student whose primary educational goal is to complete an adult basic education curriculum or attain language proficiency.

(e) In addition, an eligible student shall exhibit evidence of the potential to succeed in college, but:

1. Shall not have demonstrated sufficient academic preparation to gain admission to an approved institution of higher education under its regular standards of admission

(where applicable) and shall have standardized test scores that are below the institutional norms; or

2. Shall have an educational background that indicates a need for improved basic skills, additional academic support, or additional preparation for the applicant's desired degree program.

(f) Students who have successfully completed a NJ GEAR UP state project and who have been admitted to the institution under its regular standards of admission (where applicable) or who do not demonstrate needs as specified in (e)2 above shall also be eligible to participate in the EOF program, assuming they meet all other eligibility criteria in this subchapter, except those in (e) above.

(g) Students shall not receive assistance under the programs administered by the Board if they owe a refund on a grant or scholarship previously received from a State or Federal program through any institution or are in default on any loan made under any State or Federal student financial assistance program at any institution. However, such students may receive State financial assistance if they make satisfactory repayment arrangements with the appropriate office.

(h) Students attending out-of-State institutions are not eligible for Article III undergraduate grants.

Amended by R.2000 d.163, effective April 17, 2000.  
See: 32 N.J.R. 156(a), 32 N.J.R. 1422(a).

Inserted (b)6; inserted a new (f); and recodified former (f) and (g) as (g) and (h).

Amended by R.2004 d.161, effective April 19, 2004.  
See: 35 N.J.R. 5533(a), 36 N.J.R. 1919(b).

Rewrote the section.

Amended by R.2005 d.84, effective March 7, 2005.  
See: 36 N.J.R. 3621(a), 37 N.J.R. 773(a).

In (d), added "or demonstrates an 'ability to benefit'" at the end of 1.  
Amended by R.2009 d.187, effective June 15, 2009.  
See: 40 N.J.R. 6365(a), 41 N.J.R. 2471(a).

In (c), inserted "pursuant to N.J.A.C. 9A:11-4.6, Criteria for admission,"; in (d)3, updated the N.J.A.C. reference; and in (e)2, deleted ", at an approved institution with an open enrollment admissions policy" from the end.

Amended by R.2011 d.145, effective June 6, 2011.  
See: 42 N.J.R. 2690(a), 43 N.J.R. 1333(b).

In (b)1, deleted "or an Abbott school district" following "B school district"; and in (b)2, deleted ", and/or is eligible to receive Early Childhood Program Aid (ECPA) from the New Jersey Department of Education" following "urban aid municipality".

**9A:11-2.3 Financial eligibility for initial Article III student grants**

(a) The EOF Income Eligibility Scale is based on 200 percent of the annual Federal poverty guideline (that is, doubled) as published annually by the United States Department of Health and Human Services in the Federal Register. This benchmark was established to reflect an eligible target population consistent with the intent of the original legislation. The EOF Executive Director shall inform institutions of annual adjustments to the EOF Income Eligibility Scale each summer, and the gross income limits set forth in

this subsection shall be updated through a notice of administrative changes published in the New Jersey Register.

1. Except provided in (d), (e), (g), (h), and (i) below, dependent and independent students are financially eligible for an initial Article III student grant if their gross household income does not exceed the applicable amounts set forth in the EOF Income Eligibility Scale, as follows.

Academic Year 2013-14	
Applicants with a Household size of	Gross Income Not to Exceed
1	\$22,340
2	30,260
3	38,180
4	46,100
5	54,020
6	61,940
7	69,860
8	77,780

2. For each additional member of the household, an allowance of \$7,920 shall be added to this amount in order to determine EOF eligibility for the 2013-14 academic year.

3. The gross income level for each household size as shown in (a)1 and 2 above has been adjusted to reflect changes in Federal poverty guidelines as stated in (a) above.

(b) A dependent student's income shall not be considered in the gross household income.

(c) The following sources of untaxed income-earned income credit, additional child tax credit, untaxed social security benefits, and Temporary Assistance for Needy Families (TANF)-shall be excluded from consideration in the gross household income of applicants.

(d) An applicant whose household receives Temporary Assistance for Needy Families (TANF) and/or Supplemental Social Security Income (SSI) as the sole means of support is eligible regardless of the amount of such support.

(e) An applicant who falls between the ages of 16 to 22, who is or was in a New Jersey Division of Youth and Family Services paid placement, and who meets one of the criteria listed below, automatically satisfies the financial eligibility criteria stated in (a) above:

1. An individual who has been in the care and custody of the New Jersey Division of Youth and Family Services, in an out of home placement, for a period of nine months or more following the individual's sixteenth birthday;

2. An individual who has been in the care and custody of the New Jersey Division of Youth and Family Services after the age of 14 for a cumulative 18 months;