

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

N.J.S.A. 18A:72-10 and 18A:72-47.

Source and Effective Date

R.1998 d.385, effective August 3, 1998.
See: 30 N.J.R. 1707(a), 30 N.J.R. 2908(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 10, Student Loan and College Savings Programs, expires on December 27, 2003. See: 35 N.J.R. 2770(b).

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).

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

Subchapter 1, Roles and Relationship of NJHEAA and NJOSA, was repealed and Subchapter 1, Federal Family Education Loan Program: Policies and Procedures, was recodified from N.J.A.C. 9A:10-2 by R.2000 d.92, effective March 6, 2000.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

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 (FDSLPL) 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” 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 Dependent 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 to use to apply for Federal and State financial aid including FFEL subsidized and unsubsidized Stafford loans beginning in academic year 1999–2000.

“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 (servicing and collection) 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.

“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.

“National Student Loan 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.

“PLUS Loan” or “Federal PLUS Loan” means the Parent Loan for Dependent 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.

“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.

“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”.

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 checks and validates the information on FFELP loan applications 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 (collection 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, State and Federal income tax refund offset, suspension of occupational 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).

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 or legal guardian 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.

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 incorporated 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, publishing a monthly newsletter, staffing a customer assistance unit (including a toll-free hotline), and offering an internet web site.

(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 Loan 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.

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 to use for FFELP subsidized and unsubsidized Stafford loans beginning not later than July 1, 2000. The Master Promissory Note is the promissory note to use for borrowers for attendance at four-year schools, graduate/professional schools, and other institutions meeting United States Department of Education criteria, beginning not later than July 1, 2000. 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, Chapter 5.

(b) In certifying the loan amount eligibility and promissory note for a Stafford loan, a school is required to make several determinations regarding the eligibility of the student and the maximum amount that may be borrowed. In completing and certifying a PLUS loan application and promissory note, a school is required to make these determinations with respect to the student and the parent. The Authority imposes no guarantor specific policies or procedures for school certification. School certification requirements are set forth in 34 CFR parts 668 and 682, and further explained in the Common Manual, Chapter 5.

(c) To facilitate the loan application and certification process, the Authority participates in the FFELP Common-Line Network. CommonLine works by permitting schools to enter loan data in a common electronic format and transmit the data to participating lenders, servicers, and guarantors, including the Authority. The Authority receives this data electronically, prints an application/promissory note or Master Promissory Note, as applicable, or processes the loan for guarantee or both, and when processing of the loan request is complete, the Authority sends guarantee results electronically to the school and the lender/servicer if a CommonLine participant. CommonLine is more fully explained in the Common Manual, Chapter 5.

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.

9A:10-1.10 Permissible charges by lenders to borrowers

(a) The permissible charges by lenders to borrowers are limited to the charges set forth in 34 CFR 682.202, which addresses interest, capitalization of interest and insurance premiums, loan origination fee, insurance premium or guarantee fee, administrative charge for a refinanced PLUS or SLS loan, late charge, and collection charges.

(b) As provided under the Higher Education Act of 1965, as amended, a lender is permitted to pay a portion or all of the origination fee on a subsidized or unsubsidized Stafford loan on the borrower's behalf. The lender must charge all Stafford borrowers the same origination fee unless the borrower demonstrates greater financial need as further defined under 34 CFR 682.202. In contrast, lenders are required to charge the full origination fee to PLUS borrowers.

1. Lenders shall charge the borrower a guarantee fee equal to the amount permitted under 34 CFR 682.202, unless the Authority approves of charging the borrower a lesser amount. Guarantee fees, if charged, are applied when the loan is disbursed.

2. The Authority's policy and procedures on charging the borrower late charges are set forth in N.J.A.C. 9A:10-1.13.

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), rewrote the introductory paragraph, and changed N.J.A.C. reference in 2.

9A:10-1.11 Guarantee and disbursement

(a) A lender shall be responsible for obtaining guarantees and disbursing proceeds for Stafford, PLUS, and Consolidation loans. When the Authority receives a request for processing a loan guaranty, the Authority sends the lender either a student loan Guarantee Notice/Disclosure Statement or an electronic file of guaranty processing results or both. This is the lender's guarantee and authorization to disburse the funds. Notification of guarantee shall be sent to the student and the school at the same time. In the case of Stafford and PLUS loans processed under a Blanket Certificate of Loan Guaranty with an eligible lender, all loans eligible for insurance will be considered insured at the time of lender origination. Lenders shall be required to report such loans to the Authority for guaranty processing, and the Authority shall provide either a confirming notice of guaranty for the loans covered under the certificate or a notice that the loan does not meet the Authority's loan insurance requirements. In the case of Consolidation loans, upon approval of the loan application, the Authority will send the lender an approval notification. While the Authority focuses its attention on its area of service (borrowers, students, and schools in New Jersey and surrounding states), the Authority imposes no guarantor specific requirements for obtaining a loan guarantee except for requirements referenced above for loans processed under a Blanket Certificate of Loan Guaranty and the eligibility requirements for Consolidation loans set forth in N.J.A.C. 9A:10-1.16. The requirements for obtaining a guarantee are set forth in 34 CFR part 682, and more fully explained in the Common Manual, Chapter 6.

(b) Disbursement is the transfer of loan proceeds by the lender to a borrower, school, or escrow agent, net of any origination and guarantee fees. Disbursement may be accomplished by checks for individual borrowers, by master checks containing loan proceeds for more than one borrower, or by electronic funds transfer, in accordance with 34 CFR part 682. A Stafford loan disbursed by individual check shall be made copayable to the student and the school. If the lender issues an individual Stafford loan check, the lender is required to indicate the student's social security number, enrollment period for the loan, and the type of loan on each individual loan check. If the lender issues an individual PLUS loan check, the lender is required to indicate the student's name and social security number on each individual loan check.

(c) If the lender issues an individual Stafford loan check, and the school is located in a foreign country, the check shall be made payable to the student only. If the student is enrolled in a study-abroad program approved for credit by the home school and if the student requests, the loan check may be made payable to the student only.

(d) A Stafford or PLUS loan may be used only to cover the educational costs of attendance at the school that certifies the borrower's loan eligibility. If a student transfers between schools at any time, neither the student nor the parent borrower are eligible to receive proceeds from a loan approved as a result of the borrower's loan eligibility certified by the previous school. If a student transfers from one school to another before a loan is fully disbursed, the student or parent borrower is not eligible for any remaining disbursements of that loan, and the student or parent borrower shall notify the lender to cancel the loan or the balance of any undisbursed portion of the loan. The student or parent borrower may obtain new loan eligibility and a new loan or promissory note, as applicable, with the new loan eligibility certified by the new school.

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

9A:10-1.12 Loan servicing

(a) Loan servicing by lenders of FFELP loans begins when the loan is disbursed, and encompasses all activities during the in-school, grace, and repayment periods. Servicing activities include: verifying the student's in-school status, converting the loan to repayment, establishing repayment terms, applying payments, deferments, and forbearances, reporting transactions to the Authority, reporting the loan to a national credit bureau, performing collection due diligence, and responding to borrower or endorser inquiries within 30 days of receiving the inquiry. Such inquiries may include requests for deferments, forbearances, and other information. The Authority imposes a few guarantor specific requirements for lender servicing, such as those set forth in N.J.A.C. 9A:10-1.11(b) with respect to copayable checks, and N.J.A.C. 9A:10-1.13 under delinquency and default

prevention. The requirements for lender servicing are set forth in 34 CFR part 682 and more fully explained in the Common Manual, Chapter 7 for Stafford, SLS, PLUS, and Consolidation loans, except for requirements specific to Consolidation loans, which are explained in the Common Manual, Chapter 9.

(b) Each quarter, a lender shall report National Student Loan Data System (NSLDS) loan status data on each outstanding or paid in full loan (during that quarter) to the Authority for loans guaranteed by the Authority. A lender may arrange for a designated servicer to report on its behalf. A lender with loans guaranteed by the Authority shall receive NSLDS reporting instructions from the Authority.

(c) Pursuant to Federal guidelines, a lender shall be required to update its records with all enrollment information received on a student. The lender is required to notify the Authority if the student's enrollment status or date of attendance change. If a lender receives information that the student has graduated, withdrawn, or dropped to less than half-time enrollment on a date other than the date on which the student was projected to leave school, the lender shall report this information immediately to 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).
In (a), changed N.J.A.C. references.

9A:10-1.13 Delinquency and default prevention

(a) Lenders are required to adhere to due diligence (collection practices) to prevent delinquent loans from becoming defaulted loans. In the event that a loan becomes delinquent, the lender of a loan guaranteed by the Authority is permitted to request default aversion assistance (collection assistance) from the Authority. Due diligence activities shall be performed in the following situations: a borrower is delinquent in making payments, a lender is unable to determine the location of a borrower whose loan is delinquent, or a borrower is determined to be ineligible for a loan (due to the borrower's or student's error). To be reimbursed for loss on a loan due to the borrower's default, death, disability, bankruptcy filing, ineligibility for the loan, or situations involving school closure, false certification, or unpaid school refund, the lender of a loan guaranteed by the Authority shall submit a claim with the Authority according to the procedures and deadlines set forth in 34 CFR part 682 and this section. The Common Manual, Chapter 8, explains lender due diligence and claim filing.

(b) A lender shall be permitted to submit a request for default aversion assistance to the Authority not earlier than a borrower's 60th day of delinquency and no later than the 120th day of delinquency. If the Authority performs default aversion assistance in response to a lender's request for default aversion assistance on that loan, the Authority receives a default aversion fee. If a lender submits a request after the 120th day of delinquency, the Authority shall provide the default aversion assistance for which it may receive a default aversion fee from the United States Department of Education. Other default aversion assistance time frames for the Authority are:

1. Default aversion cancellation date deadline is day 60 delinquent, meaning that if the delinquency date falls

below day 60 delinquent, further default aversion activities are cancelled. The lender shall notify the Authority of all changes in delinquency once default aversion assistance has been requested;

2. Requests for skip-tracing assistance may be submitted at all times during the default aversion period;

3. Deadline for refileing rejected default aversion is 10 calendar days from the date the lender receives a rejected default aversion request; and

4. Notification to the Authority if there is a change in the delinquency date is required for any change in this date.

(c) Except when authorized by 34 CFR part 682 and applicable State law, late charges are not permitted on any notes that compute simple interest on a daily basis. Pursuant to N.J.S.A. 17:9A-53 et seq., banks in New Jersey are not permitted to assess late charges on daily interest notes, such as FFELP promissory notes. Out of State lenders seeking reimbursement for a claim on which they have assessed late charges shall be required to submit a copy of the state law permitting the assessment of these charges as part of claim file documentation to the Authority. If permitted by 34 CFR part 682 and applicable State law, a lender may deduct allowable late charges directly from any payment received from the borrower.

(d) The Authority requires submission of indemnification agreements when the lender submits as claim file documentation a true and exact copy of a promissory note, other than a Master Promissory Note, in lieu of an original promissory note. The Authority may require an indemnification agreement when the lender submits as claim file documentation a true and exact copy of a Master Promissory Note if the copy raises issues of authenticity or other issues affecting legal enforceability.

(e) A lender must submit a request for increase in claim payment within 60 days of receiving the claim payment from the Authority. The Authority has established a \$50.00 minimum for claim payment increase requests (supplemental claims) from lenders. A lender may submit a request for a claim payment increase only if the lender's claim file was complete at the time the Authority processed the claim.

(f) Failure to resubmit a claim, other than a bankruptcy claim, by the 60th day after the lender's receipt of the original rejection of such claim by the Authority shall result in a timely filing violation. Failure to resubmit a bankruptcy claim by the 30th day after the lender's receipt of the original rejection of such claim by the Authority shall result in a timely filing violation.

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), substituted "permitted to request default aversion" for "required to request preclaims" following "Authority is" in the second sentence, and inserted "or unpaid school refund," following "certification," in the fourth sentence; and rewrote (b) and (d).

9A:10-1.14 Default consequences and collection policies and procedures

(a) The Authority adheres to the guaranty agency due diligence policies and procedures set forth in 34 CFR part 682 to collect on defaulted FFELP loans. Pursuant to 34 CFR part 682, these policies and procedures include, but are not limited to, charging the borrower collection costs, charging the borrower interest, capitalizing unpaid interest due the lender from the borrower, reporting default claims to national credit bureaus after offering the borrower an administrative review of the status of the loan at issue, engaging in collection efforts including written and telephone notification to the borrower, initiation of proceedings to offset the borrower's State and Federal income tax refunds or property tax rebates and lottery prize winnings, initiating wage garnishment, suspension of occupational license, and taking such other steps to collect the loan as permitted under Federal and State law. As set forth in a FFELP loan promissory note, failure to repay a FFELP loan may result in any or all of the following: loss of Federal and State income tax refunds, legal action, assessment of collection charges including attorney fees, loss of professional license, loss of eligibility for other student aid and assistance under most Federal benefit programs, loss of eligibility for deferments, negative credit reports, and wage garnishment.

(b) As authorized under New Jersey law, failure to repay a FFELP loan may result in any or all of the following: loss of State income tax refund or homestead rebate, N.J.S.A. 54A:9-8.1 et seq.; administrative wage garnishment, N.J.S.A. 18A:71C-10-17; offset of lottery prizes, N.J.S.A. 5:9-13.10-16; loss of eligibility for NJCLASS loans, N.J.A.C. 9A:10-6.4; suspension of occupational license, N.J.S.A. 45:1-21.2; and loss of eligibility for State grant and scholarship programs administered by the Authority, N.J.A.C. 9A:9-2.4. The Authority also participates in information exchanges with the Department of Labor, the Division of Taxation, Division of Lottery, Division of Consumer Affairs, and other State agencies and bodies as well as public and private sector entities within or outside this State for purposes of collecting on defaulted student loans.

(c) Administrative review and appeal procedures prior to reporting default loan status to credit bureaus are as follows:

1. If a borrower wishes to inspect and copy records pertaining to his or her defaulted loan(s) 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 a fee of \$10.00 as set forth in the Authority's notice.

2. 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 loans. 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 and document 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 HESAA.

3. 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 Authority 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, Student Loans, of the HESAA, PO Box 540, Trenton, New Jersey 08625-0540, and shall contain the identification of the contested loan(s) and the reasons for appeal. Appeals shall be considered on the basis of this appeals process approved by the Authority. As part of the Authority's response to a borrower who appeals an adverse decision resulting from an administrative review, the Authority shall provide the borrower with information on the availability of the Student Loan Ombudsman's office in the United States Department of Education.

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), substituted a reference to national credit bureaus for a reference to credit bureaus, inserted a reference to property tax rebates and inserted a reference to suspension of occupational licenses in the second sentence; rewrote (b); and in (c), substituted references to the HESAA for references to the NJHEAA throughout, and added a fourth sentence in 3.

9A:10-1.15 Beyond default: rehabilitation and reinstatement

The Authority encourages borrowers who have defaulted on their FFELP loan obligations to enter into repayment arrangements that qualify them for reinstatement of the ability to receive benefits, including FFELP loans, under Title IV of the Higher Education Act, and that rehabilitate their loans, thereby bringing the loans out of default. The requirements for reinstatement are set forth in 34 CFR 682.401 and more fully explained in subregulatory Federal guidance and the Common Manual, Chapter 8. The requirements for rehabilitation are set forth in 34 CFR 682.405 and more fully explained in the Common Manual, Chapter 8.

9A:10-1.16 Loan transfer, refinance, and consolidation

(a) If a lender sells a loan guaranteed by the Authority to another lender, the buying lender shall notify the Authority of the change, pursuant to 34 CFR part 682. If a lender

transfers the servicing on a loan from one entity to another, the lender shall report the change to the Authority, pursuant to 34 CFR part 682. If a lender is acquiring an entire portfolio of another lender due to a merger, acquisition, bank closing or similar situation, the lender does not need to complete the Authority form generally required for loan transfers. The requirements for loan transfer reporting are more fully explained in the Common Manual, Chapter 3.

(b) As permitted under 34 CFR 682.209, a borrower may refinance a PLUS or SLS loan. The three options for refinancing a PLUS or SLS loan are refinancing to secure a combined payment, refinancing to secure a variable interest rate, and refinancing to discharge a previous loan. These three options are set forth under 34 CFR 682.209 and more fully explained in the Common Manual, Appendix B.

(c) The Authority participates in the Consolidation Loan Program in accordance with section 428C of the Higher Education Act of 1965, as amended, and its implementing regulations. To participate in the Authority's consolidation program, an eligible lender must be approved by the Authority to enter into a Consolidation Participation Agreement with the Authority, and sign this Agreement. To qualify for the Authority's Consolidation Loan Program, a borrower must satisfy the eligibility criteria set forth in section 428C and implementing regulations, as well as satisfy Authority criteria which include not incorporating a defaulted loan in a Consolidation loan, and evidencing a connection to New Jersey, unless otherwise permitted by the Authority. Evidencing a connection to New Jersey shall mean that either at least one underlying loan to be consolidated was guaranteed by the Authority or that the borrower is a New Jersey resident at the time of consolidation. The Consolidation Loan Program is more fully explained in the Common Manual, Chapter 9.

9A:10-1.17 School and lender training and other services

As permitted under the Higher Education Act of 1965, as amended, the Authority may use funds in the Authority's operating fund for application processing, loan disbursement, enrollment and payment status management, default aversion activities, default collection activities, school and lender training, financial aid awareness and related outreach activities, compliance monitoring, and other student financial aid and related activities as selected by the Authority. The Authority's outreach or "client services" activities shall include, but not be limited to, training of program participants and secondary school personnel, dissemination of FFELP-related information and materials to schools, loan holders, prospective loan applicants, and their parents, and training at workshops, conferences or other forums. The Authority publishes and distributes a monthly newsletter on student financial assistance topics, and maintains an internet web site.

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.

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 collection 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, Chapter 11.2.A. 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, Chapter 11.2.B. 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. Effective January 1, 2000, the scope of lender program reviews shall be changed, requiring the Authority to perform NSLDS reconciliation reviews in lieu of compliance reviews. Subject to further guidance from the United States Department of Education, these reviews shall compare lender and guarantor student loan records with data being reported through NSLDS. If the Authority chooses, it may continue to 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, loan application reject rates and reasons, student populations and sample, and lender search report. For schools, this data includes Stafford and PLUS loan volume for the period, loan application reject rates and reasons, 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, United States Department of Education Form 799 billings, 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 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.

SUBCHAPTER 2. (RESERVED)

Subchapter Historical Note

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).

SUBCHAPTERS 3 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:

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

“Authority” means Higher Education Student Assistance Authority.

“Cohort default rate” means the percentage of Federal Family Education Loan Program (FFELP) and William D. Ford Federal Direct Loan Program (Direct Loan) borrowers who default before the end of the Federal fiscal year following the Federal fiscal year in which they entered repayment on their loans, unless otherwise defined by the United States Department of Education. 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.

“Consolidation loan” means a new NJCLASS loan that discharges previous NJCLASS loans. NJCLASS loan consolidation enables a borrower with several loans to obtain one loan with one repayment schedule, and one interest rate.

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

“Delinquency” means a payment on an NJCLASS loan made late. Delinquency begins the first day after the due date of the first missed payment that is not later made. The due date of the first payment is established by the Authority.

“Eligible institution” means a public or private nonprofit institution eligible for Title IV, Higher Education Act of 1965 assistance, approved or licensed by the New Jersey Commission on Higher Education or its equivalent in another state or country and accredited by a nationally recognized accrediting association and having an annual cohort default rate of 20 percent or less. Eligible institution shall also include proprietary institutions eligible for Title IV, Higher Education Act of 1965 assistance and having an annual cohort default rate of 20 percent or less. An eligible institution for purposes of the NJCLASS Variable Rate Program shall have a lower cohort default rate threshold, as set forth in N.J.A.C. 9A:10-6.4(c). Eligible institution for purposes of the NJCLASS Postgraduate Program means an American Bar Association approved law school, a graduate medical school accredited by the Liaison Committee on Medical Education, the American Osteopathic Association, or the U.S. Department of Education’s National Committee on Foreign Medical Education and Accreditation (NCFMEA), or a graduate dental school accredited by either the American Dental Association or the Commission on Dental Accreditation of Canada.

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

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

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

“NJCLASS Postgraduate Program” means an NJCLASS program for law, medical, and dental students intended to assist with higher education costs incident to the cost of attendance, such as bar examination and medical and dental residency travel and relocation expenses. The provisions governing NJCLASS loans in this subchapter shall apply to NJCLASS Postgraduate loans, unless this subchapter otherwise provides. The Authority may offer the NJCLASS Postgraduate Program subject to the availability of funding and conditioned on market demand.

“NJCLASS Variable Rate Program” means an NJCLASS Program, initiated in 1997, targeted for graduate and professional students with eligibility requirements specially tailored for such students, as set forth in N.J.A.C. 9A:10-6.4. The provisions governing NJCLASS loans in this subchapter shall apply to NJCLASS Variable Rate loans unless this subchapter otherwise provides.

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

“Rehabilitation” (of a defaulted NJCLASS loan) means a process by which a borrower may bring an NJCLASS loan out of default by adhering to specified repayment requirements.

“Student borrower” means an undergraduate or graduate student.

(b) Terms not defined in this section shall be defined in accordance with 34 CFR parts 600, 668 and 682, including all subsequent amendments and supplements thereto.

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

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

Rewrote the section.

Amended by R.2002 d.288 and d.291, effective September 3, 2002.

See: 33 N.J.R. 4050(a), 34 N.J.R. 1399(a), 34 N.J.R. 3084(a), 34 N.J.R. 3085(a).

Amended “Eligible institution”.

9A:10-6.4 Eligibility for NJCLASS Loan, NJCLASS Variable Rate Loan, and NJCLASS Postgraduate Loan

(a) To be eligible for an 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 owe a grant refund, be in default on a student loan, have a student loan discharged in default, have a student loan written off as uncollectible, or be in violation of any of the other criteria for determining creditworthiness as outlined in N.J.A.C. 9A:10-6.5;

3. Provide an acceptable cosigner if it is determined by the Authority that one is required; and in the case of any Federal Family Education Loan amount, Federal Direct 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 an 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; and

4. Provide three references.

(b) In addition to all of the requirements in (a) above, a student applicant or a student on whose behalf the parent is applying for an 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. Be a permanent resident of New Jersey prior to filing an application; however, residency is not required if enrolled in an eligible institution located in New Jersey, meaning that either the institution maintains a campus or the place of instruction is located in New Jersey;

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

4. Be enrolled or accepted for enrollment on at least a half-time basis in an eligible institution;

5. If currently enrolled in an eligible institution, be determined by the institution to be making satisfactory academic progress;

6. If applying for an NJCLASS loan financed in whole or in part by qualified student loan bonds, as described in

section 144(b) of the Federal Internal Revenue Code of 1986, as amended, 26 U.S.C. § 144(b), have met the eligibility criteria described in that section or have not violated any other criteria which would result in the bonds no longer to be qualified under section 144(b) of the Federal Internal Revenue Code of 1986, as amended, 26 U.S.C. § 144(b); and

7. If applying for an NJCLASS loan not financed in whole or in part by qualified student loan bonds, as described in section 144(b) of the Federal Internal Revenue Code of 1986, as amended, 26 U.S.C. § 144(b), have met the eligibility criteria described in this subchapter.

(c) To be eligible for a Variable Rate NJCLASS loan for student borrowers, each student must satisfy the requirements of (b)1, 3 and 6 above as well as the following:

1. Be a permanent resident of New Jersey prior to filing an application; however, residency is not required if enrolled in an eligible institution for purposes of this program that is located in New Jersey, meaning that either the institution maintains a campus or the place of instruction is located in New Jersey;

2. Be enrolled in an eligible institution for purposes of this program, which shall mean an eligible institution of higher education under Title IV, Higher Education Act of 1965 and accredited by a nationally recognized accrediting association that is licensed by the New Jersey Commission on Higher Education or its equivalent in another state or country with a three year average cohort default rate of 10 percent or less;

3. Not owe a grant refund, be in default on a student loan, have a student loan discharged in default, have a student loan written off as uncollectible, or have adverse credit as outlined in N.J.A.C. 9A:10-6.5(d);

4. Be a graduate or professional student enrolled or accepted in a graduate or professional program as certified by an eligible institution for purposes of this program; and

5. If currently enrolled in an eligible institution for purposes of this program, be making satisfactory academic progress.

(d) To be eligible for an NJCLASS Postgraduate loan for student borrowers, each student must satisfy the requirements of (b)1, 3 and 7 above as well as the following:

1. Be a permanent resident of New Jersey prior to filing an application; however, residency is not required if enrolled in an eligible institution for purposes of this program that is located in New Jersey, meaning that either the institution maintains a campus or the place of instruction is located in New Jersey. An eligible institution is an American Bar Association approved law school, a graduate medical school accredited by the Liaison Committee on Medical Education, the American Osteopathic Association, or the U.S. Department of Education's Na-

tional Committee on Foreign Medical Education and Accreditation (NCFMEA), or a graduate dental school accredited by either the American Dental Association or the Commission on Dental Accreditation of Canada;

2. Be enrolled in the final year at an eligible institution, be making satisfactory academic progress, and expect to be awarded a J.D., M.D., D.O., D.D.S. or D.M.D. degree during the current academic year;

3. Not owe a grant refund, be in default on a student loan, have a student loan discharged in default, have a student loan written off as uncollectible, or have adverse credit as outlined in N.J.A.C. 9A:10-6.5 (d);

4. Not have a maximum total outstanding education debt of over the amount permitted in the NJCLASS Loan Application and Promissory Note. Maximum total outstanding education debt includes Federal, State, and private loans for graduate and undergraduate education, including a loan under this NJCLASS Program; and

5. School certification of the NJCLASS application no earlier than one year prior to the student's anticipated graduation date and no later than the student's actual graduation date.

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

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

In (a), added 4; rewrote (b) and (c); added (d).

Amended by R.2002 d.288 and d.291, effective September 3, 2002.

See: 33 N.J.R. 4050(a), 34 N.J.R. 1399(a), 34 N.J.R. 3084(a), 34 N.J.R. 3085(a).

Rewrote the section.

9A:10-6.5 NJCLASS creditworthiness

(a) To be approved for an NJCLASS loan, a borrower must be determined creditworthy by the Authority.

(b) The Authority may require that borrowers submit to the Authority information that includes the most recent signed Federal Income Tax Return, including all schedules, and current pay stub. For joint filers, this documentation may include the current pay stub of both filers.

(c) To be approved for a fixed rate NJCLASS loan, a creditworthy borrower or cosigner must have an income that exceeds Federal poverty guidelines, as adjusted annually by the United States Department of Health and Human Services.

(d) A borrower with one or more of the items listed below in his or her credit history may be denied an NJCLASS loan for not being creditworthy. These items include delinquent accounts, paid and unpaid collection accounts, paid and unpaid charged off accounts, foreclosure, repossession, bankruptcy, a paid or unpaid judgment, or a monthly total debt to monthly adjusted gross income ratio, which exceeds 40 percent. However, a borrower in the NJCLASS fixed rate program may be eligible if the borrower is able to secure a creditworthy cosigner.

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

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

In (b), inserted ", including all schedules, and" following "Federal Income Tax Return" and deleted ", and most recent W-2 Form" following "current pay stub" in the first sentence; deleted "and most recent W-2 Form" preceding "of both files" in the second sentence; in (c), inserted ", or a delinquent NJCLASS loan" at the end of the second sentence.

Amended by R.2002 d.288, effective September 3, 2002.

See: 33 N.J.R. 4050(a), 34 N.J.R. 3085(a).

Rewrote (b); inserted a new (c); recodified former (c) as (d); deleted former (d) and (e).

9A:10-6.6 Loan amounts

(a) If the NJCLASS loan is financed in whole or in part by qualified student loan bonds, as described in section 144(b) of the Federal Internal Revenue Code, as amended, 26 U.S.C. § 144(b), the amount borrowed shall not exceed a student's estimated cost of attendance at the eligible institution minus all other financial assistance for which the student is eligible (excluding any financial assistance which would not cause the bonds to fail to qualify under section 144(b) of the Federal Internal Revenue Code) for the academic period for which the loan is intended. This means that an eligible institution shall determine a student borrower's loan amount eligibility for Stafford loans or Federal Direct Stafford loans prior to determining a student borrower's loan amount eligibility for an NJCLASS loan. This eligibility determination excludes eligibility for Federal PLUS, Federal Direct PLUS, and Health Education Assistance loans.

(b) If the NJCLASS loan is not financed in whole or in part by qualified student loan bonds, the amount borrowed may not exceed the maximum total outstanding education debt permitted under N.J.A.C. 9A:10-6.4.

(c) To borrow additional amounts of NJCLASS funds for which an eligible institution has certified the borrower to be eligible, a borrower may submit a completed Addendum and Promissory Note to the Authority, provided the completed Addendum and Promissory Note is received by the Authority within 60 days of the date the original NJCLASS loan was approved by the Authority. The Authority shall notify the school of the request for additional amounts of NJCLASS funds, and provided the school confirms the borrower's eligibility for these amounts, the Authority will disburse the funds.

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

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

Rewrote (a); inserted a new (b); and recodified former (b) as (c).

Amended by R.2002 d.288, effective September 3, 2002.

See: 33 N.J.R. 4050(a), 34 N.J.R. 3085(a).

In (b), deleted ", and the maximum loan amount permitted in the NJCLASS Loan Application and Promissory Note booklet" at the end.

9A:10-6.7 Application procedures, disbursement, and students who transfer

(a) To borrow under the NJCLASS Program, the process shall be as follows:

1. The applicant shall complete the NJCLASS application and promissory note. All parts of the application and promissory note, including all related documentation, must be completed and all requested documentation must be submitted to the Authority; and

2. The Authority shall notify the eligible institution the student attends or plans to attend of the application and request certification of enrollment and completion of the school certification information.

(b) The Authority shall process the application and the borrower and school shall be notified of Authority approval or disapproval.

(c) The method of disbursement is determined by an eligible institution. Loan proceeds may be disbursed by individual check, master check, or by electronic means such as Electronic Funds Transfer (EFT). Funds disbursed by individual check to a student borrower shall be made jointly payable to the student and the eligible institution, sent directly to the school and may be multiply disbursed. Funds disbursed by individual check to a parent borrower shall be made payable to the parent borrower and may be multiply disbursed. If the Authority issues an individual NJCLASS loan check, and the student is enrolled in a study-abroad program approved for credit and if the student requests, the loan check may be made payable to the student only.

(d) An NJCLASS loan may be used only to cover the educational costs of attendance at the school that completes the school certification form providing school data. NJCLASS Postgraduate loans may be used to cover the educational expenses incident to the educational costs of attendance at the school that completes the school certification form providing school data. If a student transfers between schools at any time, neither the student nor the parent borrower are eligible to receive proceeds from an application and promissory note for which the school certification form was completed by the previous school. If a student transfers from one school to another before a loan is fully disbursed, the student or parent borrower is not eligible for any remaining disbursements of that loan, and the student or parent borrower must notify the Authority to cancel the loan or the balance of any undisbursed portion of the loan. The student or parent borrower may submit a second application and promissory note with new cost of attendance and estimated financial assistance figures certified by the new school.

Amended by R.2000 d.447, effective November 6, 2000.
See: 32 N.J.R. 2192(a), 32 N.J.R. 3987(a).

In (a)3, substituted "institution" for "school" preceding "the student attends"; in (c), substituted "institution" for "school" preceding "sent directly to the school"; in (d), added the second sentence.

Amended by R.2002 d.288, effective September 3, 2002.
See: 33 N.J.R. 4050(a), 34 N.J.R. 3085(a).

In (a)1, substituted "and all requested documentation must be submitted to the Authority; and" for "regardless of the applicant's age or marital status"; deleted (a)2 and recodified former (a)3 as (a)2; rewrote (c).

9A:10-6.8 Fees

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

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

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

Amended by R.2000 d.447, effective November 6, 2000.
See: 32 N.J.R. 2192(a), 32 N.J.R. 3987(a).

9A:10-6.9 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 or by the NJCLASS Application and Promissory Note if the loan is funded through other means. For NJCLASS loans funded through bonds, the NJCLASS interest rate will be a pass through rate of the bond interest rate, associated costs of sale, and such other costs or reserves which may be required, and/or determined as the bonds are issued.

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

Amended by R.2000 d.447, effective November 6, 2000.
See: 32 N.J.R. 2192(a), 32 N.J.R. 3987(a).

Rewrote (a).

9A:10-6.10 Late charge

The Authority may collect a late charge from the borrower if the borrower fails to pay all or part of the required payment of an NJCLASS loan within 10 days of the date the payment is due. The late charge may not exceed six percent of each late payment.

Amended by R.2000 d.447, effective November 6, 2000.
See: 32 N.J.R. 2192(a), 32 N.J.R. 3987(a).

9A:10-6.11 Repayment of loan

(a) The Authority shall provide the borrower and cosigner, if any, with a completed repayment Disclosure Statement detailing due dates of required payments at the time of the first loan disbursement.

(b) Borrowers shall indicate preferred repayment options on the NJCLASS loan application. The Authority shall make best efforts to offer borrowers the repayment option selected. Should a borrower fail to indicate a preferred repayment option on both the NJCLASS Loan Application and Promissory Note, the Authority shall notify the borrower to select an option, and not process the application until the borrower has made the selection. There are three repayment options for an NJCLASS loan, as follows:

1. Borrowers begin to pay the principal and interest of the loan on a monthly basis. The first payment of principal and interest is due within 60 days after the loan is first disbursed;

2. Borrowers begin to pay quarterly interest on the loan, but are not required to pay principal until graduation, withdrawal or notification of less than half-time enrollment; or

3. Borrowers are not required to pay principal or interest until graduation, withdrawal or notification of less than half-time enrollment. Once one of these circumstances occurs, the loan reverts to a repayment schedule as set forth in (b)1 above. However, interest accrued from the date of loan disbursement is deferred and capitalized (added to principal) on a quarterly basis for loans originated before June 9, 1997, and on an annual basis for loans originated on or after June 9, 1997. The first monthly payment of principal and interest shall be required within 60 days after the reversion date. In exchange for the option of deferring both principal and interest, borrowers in the repayment schedule set forth in this paragraph are required to pay an increased interest rate, as established by the Authority pursuant to N.J.A.C. 9A:10-6.9(a), over the regular program interest rate in effect at the time of borrowing. The increased interest rate applies only to NJCLASS fixed rate loans, not NJCLASS variable interest rate loans.

(c) In the case of an NJCLASS Postgraduate loan, borrowers may pay, but are not required to pay, principal or interest until the end of the deferment period. After the end of the deferment period, the loan reverts to a repayment schedule as set forth in (b)1 above. Interest accrued from the date of loan disbursement is deferred and capitalized on an annual basis and at the end of the deferment period. The deferment period for an NJCLASS Postgraduate loan means the period beginning on the initial disbursement date and ending on:

1. If the NJCLASS loan is for medical or dental residency travel and relocation expenses, the date that is nine months after the date of graduation, withdrawal or notification of less than half-time enrollment at the eligible institution named in the NJCLASS Application and Promissory Note unless on such date the borrower is participating in a required residency or postdoctoral program, in which event the deferment period will end on the date that is nine months after the date the borrower completes or otherwise ceases to participate in such program. In no event shall the deferment period end later than 57 months after the date the borrower graduates from medical school or 33 months after the date the borrower graduates from dental school. To be considered participating in a required residency or postdoctoral program during any one-year period requires that the borrower submit to the Authority a certification from the director of such program for such year; or

2. If the NJCLASS loan is for bar examination expenses, the date is nine months after the eligible institution indicated to be the borrower's anticipated or actual graduation date on the NJCLASS application.

(d) For loans made after August 3, 1998, the minimum acceptable monthly payment shall be the amount required to fully repay an NJCLASS loan in the maximum repayment period; however, the minimum acceptable monthly payment shall not be less than \$50.00 per borrower for all of that borrower's NJCLASS loans.

(e) Notwithstanding any periods of deferment and/or forbearance, an NJCLASS loan shall be paid in full no later than 15 years from the first date of loan disbursement, and an NJCLASS Variable Rate Loan shall be paid in full no later than 23 years from the first date of loan disbursement or the maximum repayment period stated on the loan disclosure, whichever is less; and an NJCLASS Postgraduate loan shall be paid in full no later than 20 years from the first date of loan disbursement or the maximum repayment period stated on the loan disclosure, whichever is less.

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

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

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

In (b), rewrote the introductory paragraph, inserted "first" preceding "disbursed" in 1, and added the last sentence in 3; inserted a new (c); recodified former (c) through (e) as (d) through (f); and rewrote the new (e).

9A:10-6.12 Deferments and forbearance

(a) Under certain conditions, borrowers shall 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 and half-time study at an eligible institution;

2. Unemployment;

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

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

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

3. Service as an intern or resident;

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

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

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

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

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

4. Active duty status in the Armed Forces;

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

5. Peace Corps;

i. To qualify for this deferment, a borrower shall submit a request and provide the Authority with a statement from an official of the Peace Corps program certifying:

(1) That the borrower has agreed to serve as a volunteer on a full-time basis for at least one year;

(2) The date on which the borrower's service began; and

(3) The date on which the borrower's service is expected to end.

6. Temporary total disability;

i. To qualify for this deferment, a borrower shall submit a request and provide the Authority with a statement from a physician, who is a doctor of medicine or osteopathy and is legally authorized to practice, certifying that the borrower is temporarily totally disabled.

ii. Temporarily totally disabled means that an individual is unable to work and earn money or attend school during a period needed to recover from injury or illness.

(b) The deferment begins on the date the borrower's qualifying status is certified to begin and ends on the date the borrower's qualifying status is certified to end. Maximum allowable time periods shall be 18 months for an

unemployment deferment, and for each of the remaining deferments, as established by the Authority.

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

(d) The Authority may also, at its discretion, grant borrowers periods of forbearance in the repayment of the NJCLASS loan(s). Forbearance may be granted for situations including, but not limited to, economic hardship (as these terms are defined for the FFEL Program, 34 CFR part 682). The maximum allowable time period for economic hardship forbearance shall be 18 months. In granting a forbearance, the Authority permits a temporary cessation of principal payments and temporarily permits payments of interest only.

9A:10-6.13 Consolidation

(a) The Authority may offer an NJCLASS Consolidation program. A creditworthy NJCLASS borrower with several NJCLASS loans may wish to consolidate those loans to obtain one repayment schedule and one interest rate, and in so doing, discharge the underlying NJCLASS loans. To consolidate eligible NJCLASS loans as defined in (b) below, the borrower shall complete an NJCLASS Consolidation Loan application and promissory note. The borrower shall then forward the application materials to the Authority, which shall process the application and notify the borrower of approval or disapproval. The NJCLASS rules in this subchapter on creditworthiness, fees, interest, late charge, deferments, forbearance, and default apply to NJCLASS Consolidation loans. The repayment rules apply as well with the exception of the maximum repayment time. For NJCLASS Consolidation loans, the maximum repayment time is 15 years from the date the Consolidation loan is made.

(b) Loans eligible for NJCLASS Consolidation are NJCLASS loans made after August 3, 1998, in grace period preceding repayment or repayment status, but not in default status.

Amended by R.2000 d.447, effective November 6, 2000.
See: 32 N.J.R. 2192(a), 32 N.J.R. 3987(a).

9A:10-6.14 Delinquency

(a) In keeping with the Authority's goals of default prevention in the NJCLASS Program, the Authority may perform a series of default prevention activities beginning when an NJCLASS loan is 10 days delinquent.

(b) Default prevention activities shall include, but not be limited to, letters and telephone calls to the borrower beginning after the first 10 days of delinquency. Thirty days before sending a letter of default (180 days delinquent, or 240 days delinquent depending on whether payments are due monthly or less frequently than monthly), the Authority

shall telephone the borrower and send the borrower a final demand letter.

Amended by R.2000 d.447, effective November 6, 2000.
See: 32 N.J.R. 2192(a), 32 N.J.R. 3987(a).
Amended by R.2002 d.288, effective September 3, 2002.
See: 33 N.J.R. 4050(a), 34 N.J.R. 3085(a).
In (a), substituted "may" for "shall".

9A:10-6.15 Credit bureau reporting

The Authority shall report the status of all NJCLASS loans, for borrowers and cosigners, in the NJCLASS portfolio to a national credit bureau each month.

Amended by R.2002 d.288, effective September 3, 2002.
See: 33 N.J.R. 4050(a), 34 N.J.R. 3085(a).
Deleted the second and third sentences.

9A:10-6.16 Default and consequences of 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 Authority 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 when payments are due monthly;
or
2. At least 240 days during the student's in-school period when payments are due less frequently than monthly.

(b) Upon default, the borrower is liable for the entire balance of the loan. Upon default, the Authority shall notify credit bureaus of this negative information. Default may result in any or all of the following: loss of State income tax refunds or State tax rebates, legal action, assessment of collection charges including attorney fees, loss of eligibility for other student aid, negative credit reports, administrative wage garnishment, offset of lottery prize winnings, and suspension of New Jersey occupational license.

Amended by R.2000 d.447, effective November 6, 2000.
See: 32 N.J.R. 2192(a), 32 N.J.R. 3987(a).
In (b), inserted "or State tax rebates" following "State income tax refunds" and inserted ", and suspension of New Jersey occupational license" following "lottery prize winnings".

9A:10-6.17 Discharge

(a) Rules governing the discharge of loans based on filing for relief in bankruptcy, and discharge of loans due to death or total and permanent disability are set forth in this section. If an NJCLASS loan was obtained by two borrowers as co-makers or by a borrower and one or more cosigners, and only one of the borrowers dies, becomes totally and permanently disabled, has collection of his or her loan obligation stayed by a bankruptcy filing, or has that obligation discharged in bankruptcy, the other borrower or cosigner remains obligated to repay the loan, beginning with NJCLASS loans using promissory notes dated 1994 or later.

(b) If an individual borrower dies, the obligation of the borrower to make any further payments on the loan is discharged. In determining that a borrower has died, the Authority must receive acceptable proof of death, which shall be a certified copy of the death certificate with a raised seal.

(c) If the Authority determines that an individual borrower is totally and permanently disabled, the obligation of the borrower to make any further payments on the loan is discharged. A borrower is not considered totally and permanently disabled on the basis of a condition that existed at the time he or she applied for the loan, unless the borrower's condition has substantially deteriorated later, so as to render the borrower totally and permanently disabled. Totally and permanently disabled means the condition of any individual who is unable to work and earn money or attend school because of an injury or illness that is expected to continue indefinitely or result in death. After being notified by the borrower that the borrower claims to be totally and permanently disabled, the Authority shall request that the borrower submit on a form provided or approved by the Authority a certification of the existence thereof by a physician, who is a doctor of medicine or osteopathy and legally authorized to practice in a state that the borrower is totally and permanently disabled.

(d) The following pertain to borrower bankruptcy;

1. If the Authority is notified that any of the parties to the note has filed a petition for relief in bankruptcy under Chapters 12 or 13 of the Federal Bankruptcy Code, the Authority shall immediately suspend any collection efforts outside the bankruptcy proceeding against any other of the parties to the note. If the Authority is notified that any of the parties to the note has filed a petition for relief in bankruptcy under Chapters 7 or 11 of the Federal Bankruptcy Code, the Authority may suspend any collection efforts outside the bankruptcy proceeding against any other of the parties to the note.

2. The Authority shall determine that a borrower has filed a petition for relief in bankruptcy on the basis of receiving a notice of the first meeting of creditors or other confirmation issued by the bankruptcy court.

3. In general, the Authority shall follow the Federal regulations governing guaranty agency participation in bankruptcy proceedings, set forth in 34 CFR 682.402, except that the Authority in its discretion may choose to differ from Federal cost benefit analysis in deciding whether to oppose an undue hardship discharge petition, to oppose a plan proposed under Chapters 11, 12, or 13 of the Federal Bankruptcy Code, or to oppose a discharge pursuant to a plan under Chapters 11, 12, or 13 of the Federal Bankruptcy Code.

Amended by R.2000 d.447, effective November 6, 2000.
See: 32 N.J.R. 2192(a), 32 N.J.R. 3987(a).
Rewrote (d)1.