

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).

Executive Order No. 66(1978) Expiration Date

Chapter 10, Student Loan and College Savings Programs, expires on June 30, 2003.

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 Subchapter 7, Policy Governing New Jersey Better Educational Savings Trust (NJBEST) Program, effective August 3, 1998. See: 30 N.J.R. 1707(a), 30 N.J.R. 2908(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ROLES AND RELATIONSHIP OF NJHEAA AND NJOSA

9A:10-1.1 General

SUBCHAPTER 2. FEDERAL FAMILY EDUCATION LOAN PROGRAM POLICIES AND PROCEDURES

- 9A:10-2.1 Purpose
- 9A:10-2.2 Scope; Federal rules and statutes incorporated by reference
- 9A:10-2.3 Definitions
- 9A:10-2.4 Role of the Authority as guaranty agency
- 9A:10-2.5 Authority as lender and secondary market
- 9A:10-2.6 Types of FFELP loans
- 9A:10-2.7 Lender participation and lender of last resort
- 9A:10-2.8 School participation
- 9A:10-2.9 Borrower eligibility and loan certification
- 9A:10-2.10 Permissible charges by lenders to borrowers
- 9A:10-2.11 Guarantee and disbursement
- 9A:10-2.12 Loan servicing
- 9A:10-2.13 Delinquency and default prevention
- 9A:10-2.14 Default consequences and collection policies and procedures
- 9A:10-2.15 Beyond default: rehabilitation and reinstatement
- 9A:10-2.16 Loan transfer, refinance, and consolidation
- 9A:10-2.17 School and lender training and other services
- 9A:10-2.18 Authority guaranty agency enforcement requirements: program reviews

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
- 9A:10-6.2 Scope
- 9A:10-6.3 Definitions

- 9A:10-6.4 Eligibility for NJCLASS Loan and NJCLASS Pilot Variable Rate Loan
- 9A:10-6.5 NJCLASS creditworthiness
- 9A:10-6.6 Loan amounts
- 9A:10-6.7 Application procedures, disbursement, and students who transfer
- 9A:10-6.8 Fees
- 9A:10-6.9 Interest
- 9A:10-6.10 Late charge
- 9A:10-6.11 Repayment of loan
- 9A:10-6.12 Deferments and forbearance
- 9A:10-6.13 Consolidation
- 9A:10-6.14 Delinquency
- 9A:10-6.15 Credit bureau reporting
- 9A:10-6.16 Default and consequences of default
- 9A:10-6.17 Discharge
- 9A:10-6.18 Rehabilitation
- 9A:10-6.19 Authority enforcement requirements for schools participating in the NJCLASS Program

SUBCHAPTER 7. POLICY GOVERNING NEW JERSEY BETTER EDUCATIONAL SAVINGS TRUST (NJBEST) PROGRAM

- 9A:10-7.1 Purpose
- 9A:10-7.2 Scope
- 9A:10-7.3 Definitions
- 9A:10-7.4 Procedure for opening an account
- 9A:10-7.5 Contributions
- 9A:10-7.6 Cancellations and withdrawals
- 9A:10-7.7 Procedures for changes in designated beneficiary and rollovers
- 9A:10-7.8 Fees and charges
- 9A:10-7.9 Penalty for nonqualified withdrawals
- 9A:10-7.10 Statements, reports on distributions, information returns
- 9A:10-7.11 Exclusion from New Jersey gross income
- 9A:10-7.12 Eligibility for NJBEST scholarship
- 9A:10-7.13 Amount excluded from State need based financial aid eligibility
- 9A:10-7.14 Statement on contracts and applications
- 9A:10-7.15 Selection of investment manager
- 9A:10-7.16 Investment by private entity
- 9A:10-7.17 Certain limitations

SUBCHAPTER 1. ROLES AND RELATIONSHIP OF NJHEAA AND NJOSA

9A:10-1.1 General

The New Jersey Office of Student Assistance (NJOSA) is a State agency established in the Executive Branch of Government and for purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the NJOSA is allocated in but not of the Department of the Treasury. Notwithstanding this allocation, the NJOSA shall be independent of any supervision or control by the Department of the Treasury. The NJOSA shall administer the student assistance programs established under the New Jersey Higher Education Assistance Authority (NJHEAA) and the Student Assistance Board (SAB) as well as other student assistance programs as determined by law. The NJOSA is headed by an executive director, appointed by the Governor. NJOSA employees administer

the programs established under NJHEAA. NJHEAA is a public oversight board composed of eight members: the chairman of the Commission on Higher Education, State Treasurer or designee, and six members of the public.

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**SUBCHAPTER 2. FEDERAL FAMILY
EDUCATION LOAN PROGRAM: POLICIES
AND PROCEDURES**

9A:10-2.1 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:10-2.2 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:10-2.1. 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.

9A:10-2.3 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 “NJHEAA” means the New Jersey Higher Education Assistance Authority, a public oversight board and instrumentality of the State whose student assistance programs are administered by the New Jersey Office of Student Assistance.

“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 180 days for a loan repayable in monthly installments; or 240 days for a loan repayable in less frequent installments.

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

“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 Stafford loan to an otherwise eligible borrower who has been unable to find a lender willing to make a loan. If the Authority approves, lender of last resort shall also mean a lender or the Authority that agrees to make an unsubsidized Stafford loan to an otherwise eligible borrower who has been unable to find a lender willing to make a loan.

“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.

“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.

9A:10-2.4 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. 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;
2. Loan status management: The Authority assists borrowers, schools, and lenders by providing information on loan accounts and borrower status;

3. Regulatory 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);

4. 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;

5. Default prevention: The Authority works with lenders, schools, and students to prevent defaults. The Authority provides preclaims assistance (collection assistance) to lenders to help prevent delinquent borrowers from defaulting on their loans;

6. 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;

7. 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, 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;

8. 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; and

9. 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.

9A:10-2.5 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:72-1 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:72-1 et seq.

9A:10-2.6 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.

(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.

(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.

9A:10-2.7 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:10-2.16(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 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). If the Authority approves, the lender of last resort shall also mean a lender or the Authority that agrees to make an unsubsidized Stafford loan to an otherwise eligible borrower who has been unable to find a lender willing to make a loan.

9A:10-2.8 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 offer training and disseminate information and materials as permitted under Federal regulations. 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.

9A:10-2.9 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 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 completing and certifying a Stafford or PLUS loan application and promissory note, a school is required to make several determinations regarding the eligibility of the student, or the student and the parent in the case of a PLUS loan, and the maximum amount that may be borrowed. 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 guarantors, including the Authority. The Authority receives this data electronically, prints an application/promissory note 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.

9A:10-2.10 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 by Federal subregulatory guidance on origination fees, where the lender is required by law to charge the borrower an origination fee, as is the case for an unsubsidized Stafford loan, the lender is not permitted to pay all or a portion of the fee on the borrower's behalf. In contrast, pursuant to Federal guidelines, a lender is permitted to pay a portion or all of the origination fee on a subsidized Stafford loan on the borrower's behalf.

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:10-2.13.

9A:10-2.11 Guarantee and disbursement

(a) A lender shall be responsible for obtaining guarantees and disbursing proceeds for Stafford, PLUS, and Consolidation loans. When an application and promissory note is submitted to the Authority for guarantee, the Authority determines the applicant's eligibility based on the information provided and information on its data base. This information must meet Federal requirements and applicable guarantor policy. Upon approval of the loan application, the Authority shall send the lender a student loan Guarantee Notice/Disclosure Statement. This is the lender's guarantee and authorization to disburse the funds. The Guarantee Notice/Disclosure Statement shall then be attached to the application/note or otherwise retained. Notification of guarantee shall be sent to the student and the school at the same time. 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. 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 application and promissory note. 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 that was 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 submit a second application and promissory note with new cost of attendance and estimated financial assistance figures certified by the new school.

9A:10-2.12 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 few guarantor specific requirements for lender servicing, such as those set forth in N.J.A.C. 9A:10-2.11(b) with respect to copayable checks, and N.J.A.C. 9A:10-2.13 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.

9A:10-2.13 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 required to request preclaims 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 or false certification, 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 required to submit a request for preclaims assistance to the Authority between a borrower's 50th and 70th day of delinquency. Other preclaims assistance time frames for the Authority are:

1. Preclaims cancellation date deadline is day 60 delinquent, meaning that if the delinquency date falls below day 60 delinquent, the lender must notify the Authority to cancel the request for preclaims assistance;
2. Requests for skip-tracing assistance may be submitted at all times during the preclaims period;
3. Deadline for refiling rejected preclaim is 10 calendar days from the date the lender receives a rejected preclaims 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 certified copy of a promissory note in lieu of an original promissory note.

(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.

9A:10-2.14 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 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 and lottery prize winnings, initiating wage garnishment, 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:72-23-25.6; 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; and loss of eligibility for State financial assistance administered by the Student Assistance Board, N.J.A.C. 9A:9-2.4. The Authority also participates in information exchanges with the Department of Labor, the Division of Taxation, and Division of Lottery, and other State agencies and bodies as well as state agencies in other states 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 NJHEAA.

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 NJHEAA, PO Box 540, Trenton, New Jersey 08625, 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.

9A:10-2.15 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:10-2.16 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:10-2.17 School and lender training and other services

As permitted under Federal regulations, the Authority performs client services that are ordinary and necessary for the fulfillment of its FFELP guaranty responsibilities under the Higher Education Act. These 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. In furtherance of its FFELP guaranty responsibilities, the Authority through the NJOSA publishes and distributes a monthly newsletter on student financial assistance topics, and maintains an internet web site. The NJOSA internet address is: <http://www.state.nj.us/treasury/osa>.

9A:10-2.18 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.

(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).

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.