

CHAPTER 10

STUDENT LOAN AND COLLEGE SAVINGS PROGRAMS

Authority

N.J.S.A. 18A:71A-1 et seq., 18A:71B-35 through 46, 18A:71B-96, 18A:71C-1 through 31, and 18A:71C-49; and 20 U.S.C. §§ 1071 et seq.

Source and Effective Date

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

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 10, Student Loan and College Savings Programs, expires on May 2, 2009. See: 40 N.J.R. 6721(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 re-adopted by R.1998 d.385, effective June 30, 1998, and was recodified as N.J.A.C. 9A:10-7, Policy Governing New Jersey Better Educational Savings Trust (NJBEST) Program, effective August 3, 1998. See: 30 N.J.R. 1707(a), 30 N.J.R. 2908(a).

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

Subchapter 1, Roles and Relationship of NJHEAA and NJOSA, was repealed and Subchapter 1, Federal Family Education Loan Program: Policies and Procedures, was recodified from N.J.A.C. 9A:10-2 and Subchapter 2, Federal Family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

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

Subchapter 2, Social Services Student Loan Redemption Program, was adopted as new rules by R.2006 d.116, effective March 20, 2006. See: 37 N.J.R. 4500(a), 38 N.J.R. 1453(a).

Subchapter 3, OB/GYN Student Loan Expense Reimbursement Program, was adopted as new rules by R.2006 d.251, effective July 3, 2006. See: 38 N.J.R. 1368(a), 38 N.J.R. 2801(a).

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

9A:10-1.1 Purpose

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

9A:10-1.2 Scope; Federal rules and statutes incorporated by reference

(a) The part of the United States Code known as Title 20, Chapter 28, Subchapter IV, Part B, 20 U.S.C. §§ 1071 et seq., including all subsequent amendments and supplements, is

hereby adopted as rules and incorporated within this subchapter. The part of the Code of Federal Regulations known as 34 CFR 682.100 et seq., as well as other parts of the Code of Federal Regulations that govern the FFELP, including all subsequent amendments and supplements are hereby adopted as rules and incorporated within this subchapter.

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

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

9A:10-1.3 Definitions

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

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

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

“Cohort default rate” means the percentage of FFELP and Federal Direct Student Loan Program (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” or “NCHELP CommonLine Network” means a standardized electronic exchange of data

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

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

“Default” means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the United States Secretary of the Department of Education or the guaranty agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 270 days for a loan repayable in monthly installments; or 330 days for a loan repayable in less frequent installments.

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

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

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

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

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

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

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

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

“Lender Reporting System (LaRS)” means the electronic version of the ED 799 form which lenders submit on a quarterly basis to report loan origination fees and lender fees relating to the disbursement of new FFELP loans, claims for interest and special allowance benefits, and summarized loan activity information.

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

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

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

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

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

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

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

“Preclaims assistance” means the collection assistance provided to a lender by a guarantor such as the Authority intended to supplement the lender’s efforts to prevent default

on a borrower's FFELP loan. This assistance is available prior to the October 7, 1998 effective date of the 1998 amendments to the Higher Education Act of 1965, as amended.

"Professional and occupational license" means the whole or part of any State agency permit, certificate, approval, registration, charter or similar form of permission to engage in a profession, trade, business or occupation and any notification required to be made to any State agency that a profession, trade, business or occupation is being engaged in or is expected to be commenced; provided that "license" shall not include any original charter or certificate of incorporation granted by any State agency.

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

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

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

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

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

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

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

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

Rewrote (a).

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

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

(b) Key guarantor functions are:

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

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

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

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

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

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

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

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

provide the borrower with reasonable and affordable repayment options based on the borrower's income and ability to pay;

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

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

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

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

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

Rewrote (b).

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

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

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

Case Notes

Wage garnishment granted on defaulted student loans in the amount of 7% of disposable wages, rather than the 15% requested by the agency; financial hardship warranted a lesser percentage (petitioner did not appear). *NJHESAA v. Viola*, OAL Dkt. No. HEA 791-08, 2008 N.J. AGEN LEXIS 384, Final Decision (June 20, 2008).

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

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

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

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

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

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

9A:10-1.6 Types of FFELP loans

(a) A subsidized Federal Stafford loan is available to an eligible student attending a participating postsecondary school. A student who demonstrates financial need is eligible to have the Federal government pay the interest on the loan to the lender until repayment of the loan begins and during any deferment periods. The student is allowed a grace period (usually six months) after leaving school or dropping below

half-time attendance before repayment begins. Repayment of the loan is scheduled over a maximum 10-year period according to the payment plan chosen by the borrower, except that borrowers qualifying under section 428(b)(9) of the Higher Education Act of 1965, as amended (20 U.S.C. § 1078(b)(9)), may select a repayment plan with up to a 25-year maximum repayment period.

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

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

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

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

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

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

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

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

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

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

(a) To participate in any of the loan programs for which the Authority serves as guarantor, a lender is required to submit evidence acceptable to the Authority that it is an eligible lender under the Higher Education Act of 1965, as amended. If the Authority is satisfied that a lender meets the requirements for eligibility and participation under the Higher Education Act of 1965, as amended, the Authority may offer a participation agreement to that lender. A lender cannot

participate in the Authority's programs without a participation agreement with the Authority. There are three principal types of Authority participation agreements: a participation agreement for lenders originating Stafford and PLUS loans, a participation agreement for lenders serving as secondary markets or holders of Stafford and PLUS loans, and a participation agreement for lenders originating Consolidation loans. The borrower eligibility criteria 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, issuing a periodic newsletter, staffing a customer assistance unit (including a toll-free hotline), and offering an internet website.

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

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

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

In (c), rewrote the first sentence.

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

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

9A:10-1.9 Borrower eligibility and loan certification

(a) A borrower may request an application and promissory note for a Stafford or PLUS loan from the school, the lender, or the Authority. The FAFSA is the application used for FFELP subsidized and unsubsidized Stafford loans and the Master Promissory Note is the promissory note used by borrowers for attendance at four-year schools, graduate/professional schools, and other institutions meeting United States Department of Education criteria in accordance with the Higher Education Act of 1965, as amended, 20 U.S.C. § 1087vv, and its implementing regulations 34 CFR 682 et seq. Schools authorized for multi-year use of the MPN are required to develop and document a confirmation process

along with the FFELP lender to ensure that the borrower wants subsequent loans. The Authority imposes no guarantor specific policies or procedures for determining eligibility for

a Stafford or PLUS loan. Borrower and student eligibility requirements are set forth in 34 CFR parts 668 and 682, and further explained in the Common Manual.

(b) In certifying the student's eligibility for a Stafford loan, a school is required to determine his or her eligibility and the maximum amount that may be borrowed. In certifying eligibility for a PLUS loan, 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.

(c) To facilitate the loan guaranty process, the Authority participates in the CommonLine Network. The Authority receives loan data from the schools electronically, prints an application and 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.

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

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

Rewrote the section.

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

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

Rewrote the 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 address 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.

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(c).

(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.

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.

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

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

Rewrote the section.

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 in this subsection 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(c). The requirements for obtaining a guarantee are set forth in 34 CFR part 682, and more fully explained in the Common Manual.

(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.

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).

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

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

In (a), substituted "in this subsection" for "above" and amended the N.J.A.C. reference in the eighth sentence, and deleted ", Chapter 6" at the end of the ninth sentence; in (d), deleted the fourth sentence.

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) and (c) 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.

(b) At the end of each quarterly period, or lesser period as recommended by the United States Department of Education, a lender shall report National Student Loan Data System (NSLDS) loan status data on each outstanding or paid in full loan (during that period) 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.

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

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

In (a), amended N.J.A.C. reference; rewrote (b).

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 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 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 initial 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 refiled rejected default aversion is no later than the 150th day of delinquency; 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 claims 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 may require an indemnification agreement when the lender submits as claim file documentation a true and exact copy of a 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 90 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).

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

In (a), deleted "(collection assistance)" preceding "from the Authority" and deleted ", Chapter 8" following "The Common Manual"; in (b), deleted "initial" preceding "request for default aversion" in the introductory paragraph and rewrote 3; rewrote (d); in (e), substituted "90" for "60" preceding "days of receiving".

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, property tax rebates or other governmental payments and lottery prize winnings, initiating wage garnishment, suspension of occupational and professional 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, property tax rebates or other governmental payments and lottery prize winnings, 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, regulations and court rules, failure to repay a FFELP loan may result in any or all of the following: loss of State income tax refund or property tax rebates, 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 and N.J.A.C. 17:43; loss of eligibility for NJCLASS loans, N.J.A.C. 9A:10-6.4; suspension of occupational and professional license, N.J.S.A. 45:1-21.2, N.J.S.A. 2A:13-12, N.J.R.C. 1:20-11B and N.J.S.A. 18A:71C-19; 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.

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

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

Rewrote (a) and (b).

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. The requirements for rehabilitation are set forth in 34 CFR 682.405 and more fully explained in the Common Manual.

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

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

Deleted references to Chapter 8 throughout.

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 must notify the Authority of the change. The requirements for loan transfer reporting are more fully explained in the Common Manual.

(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.

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

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

In (a), rewrote the third sentence; deleted Chapter references throughout.

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 issues a periodic newsletter on student financial assistance topics, and maintains an internet website.

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

Rewrote the section.

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

Rewrote the third sentence.

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

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

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

(c) The Authority shall perform a biennial program review of each participating lender whose dollar volume of FFELP loans made or held by the lender and guaranteed by the Authority in the preceding year meet one or more of the volume criteria set forth in 34 CFR 682.410(c). The Authority may request that the United States Department of Education approve substitutions to its list of required lender reviews. In addition to the Federal criteria used in selecting lenders for review, the Authority may consider other factors, such as those listed in the Common Manual. These other factors are: loan volume trends, significant increases in cumulative or

cohort default rates, evidence of regulatory violations, evidence of potential fraud or abuse in its FFELP participation, and complaints from schools, students, or borrowers. The Authority may conduct compliance reviews in other areas of lender administration as long as, at a minimum, the scope includes NSLDS reconciliation.

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

(e) Preparation for the review is as follows:

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

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

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

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

1. The Authority shall issue a program review report to the school or lender being reviewed.

2. The program review ends when all required actions are completed and all liabilities are paid by the school or lender being reviewed.

3. When the program review ends, the Authority shall notify the school or lender in writing that the program review is closed. The Authority shall also update the Postsecondary Education Participants System (PEPS) database. The Authority shall at the same time notify the United States Department of Education that the program review is closed.

4. If the Authority is unable to close a program review because the school or lender is uncooperative in taking the required corrective action, the Authority shall refer the case to the United States Department of Education.

5. The Authority may pursue a limitation, suspension, or termination action regarding participation in the FFELP as a result of a program review. The limitation, suspension, and termination process for lenders and schools is set forth in 34 CFR 682.700, Subpart G.

6. If potential fraud or abuse with respect to FFELP participation is identified during a program review, the Authority reviewers shall be obligated to notify and forward all supporting documentation to the United States Department of Education's Office of Inspector General. The Authority shall also be obligated to comply with other applicable enforcement requirements set forth in 34 CFR 682.410(c).

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

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

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

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

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

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

SUBCHAPTER 2. SOCIAL SERVICES STUDENT LOAN REDEMPTION PROGRAM

9A:10-2.1 Purpose and scope

The rules established by this subchapter provide the policies and procedures for participation in the Social Services Student Loan Redemption Program administered by the Higher Education Student Assistance Authority. This program is intended to address the critical shortage of direct care professionals in the State by providing loan redemption incentives for persons who engage in employment at certain public facilities, and nonprofit social services agencies under contract with the Department of Human Services or the Juvenile Justice Commission so as to ensure that sufficient, qualified professional staff are available to provide the direct care services that are needed by State residents. This program provides redemption of eligible student loan expenses in-

curred by program participants covering the cost of attendance while enrolled in an approved undergraduate or graduate course of study in exchange for full-time employment as a direct care professional at a qualified facility or agency following the participant's successful completion of the approved course of study.

9A:10-2.2 Definitions

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

"Approved course of study" means an undergraduate program leading to a bachelor's degree offered by a four-year public or independent institution of higher education; or a graduate program leading to a master's degree offered by a public or independent institution of higher education in a human services discipline such as social work, psychology or counseling, or a health-related profession such as occupational, physical or speech therapy.

"Approved employment" means postgraduate, full-time employment as a direct care professional in a qualified facility. The term does not include a paid student internship, paid fellowship, volunteer service or employment before graduation.

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.A. 18A:71A-3.

"Direct care professional" means a professional staff member at a qualified facility who provides one or more of the social or health-related services to eligible persons in need of these services.

1. For purposes of this definition, "social or health-related services" means counseling; physical, occupational, recreational or speech therapy; case management; vocational training; assistance with activities of daily living; medication management; budgeting assistance; addiction treatment services; nutrition; and other clinical services.

"Eligible student loan expenses" means the cumulative total of the annual State and Federal student loans, including interest paid or due, covering the cost of attendance while enrolled in an approved course of study.

"Executive Director" means the Executive Director of the Authority or his or her designee.

"Financial Aid Services" means the Financial Aid Services office, or its successor office, located within the Authority.

"Legal and Governmental Affairs" means the Legal and Governmental Affairs office, or its successor office, located within the Authority.

"Program" means the Social Services Student Loan Redemption Program established pursuant to P.L. 2005, c. 157.

“Program participant” means a person who meets the eligibility, application and contractual requirements for participation in the program.

“Qualified facility” means:

1. A facility operated by the Department of Human Services that provides direct care services to persons served by the department;
2. A county psychiatric hospital;
3. A facility operated by the Juvenile Justice Commission;
4. A veterans’ memorial home operated by the Department of Military and Veterans Affairs; and
5. A nonprofit agency in the State that contracts with the Department of Human Services or the Juvenile Justice Commission to provide direct care services to persons served by the department or commission.

9A:10-2.3 Listings of qualified facilities and filling qualified positions

(a) Each year, as specified by the Authority, the Commissioner of Human Services, the Executive Director of the Juvenile Justice Commission and the Adjutant General of the Department of Military and Veterans Affairs, or their designees, shall each submit a list of qualified facilities and qualified direct care professional positions to the Executive Director of the Authority. Each agency shall also provide any updates to these listings to the Executive Director no later than June 1 of each year.

(b) To better ensure the effectiveness of the program, any agency of the State, any political subdivision thereof, and any nonprofit agency in the State that operates a qualified facility, or provides services under contract funded in whole or in part with State funds at a qualified facility, shall make the greatest possible good faith effort to fill any direct care professional position at the qualified facility with a person having an undergraduate or graduate degree in a human services discipline such as social work, psychology or counseling, or in a health-related profession such as occupational, physical or speech therapy in accordance with P.L. 2005, c. 157.

9A:10-2.4 Eligibility requirements for program participation

(a) To be eligible for participation in the program, an applicant must:

1. Be a resident of the State of New Jersey and maintain domicile in the State during participation in the program;
2. Have successfully completed an approved course of study within a one year period prior to being hired as a full-time direct care professional at a qualified facility;

3. Have been initially hired as a full-time direct care professional at a qualified facility on or after July 14, 2005, which is the date of program enactment; and

4. Have an outstanding balance with a State or Federal student loan program and not be in default on any student loan.

9A:10-2.5 Application procedures

(a) In order to apply for participation in the program, an applicant must complete a loan redemption program application and submit it to the Director of Financial Aid Services.

1. The program application includes identifying information about the applicant as well as contact information, current employment, college attendance and graduation, the amount of the applicant’s outstanding Federal and State student loans and the holder of those loans.

2. Inclusive within the program application, an applicant must also have his or her employer certify full-time employment as a direct care professional in a qualified facility before submitting the application to the Director of Financial Aid Services.

(b) The Authority will consider applications for approval of program participation in the date order they are received, subject to available funding.

(c) The Authority will determine the applicant’s eligibility for the program based upon the information submitted and will provide notification to the applicant of his or her acceptance into the program.

9A:10-2.6 Terms for loan redemption

(a) An applicant, who has met the eligibility requirements for participation in the program, shall enter into a written contract with the Authority. The contract shall specify the duration of the participant’s approved employment service obligation, not to exceed four years, and the total amount of eligible student loan expenses to be redeemed by the State in return for service.

(b) Loan redemption under the program shall not exceed \$5,000 of the principal and interest of eligible student loan expenses for each full year of approved employment service successfully completed by the program participant. The total loan redemption amount for a program participant shall not exceed \$20,000. No amount of loan redemption shall be provided for service performed for less than a full year. Loan redemption will be applied first to outstanding State loans and then to outstanding Federal loans.

1. At the time an applicant is accepted as a program participant and has entered into a written contract with the Authority, the Authority will encumber up to \$20,000 of program funds as necessary to provide for the redemption of the participant’s eligible student loan expenses.

(c) In order to continue eligibility for loan redemption under the program, a participant must submit certification, prior to the annual redemption of loan indebtedness, of his or her full-time employment as a direct care professional in a qualified facility to the Director of Financial Aid Services.

9A:10-2.7 Exclusion from New Jersey gross income for tax purposes

Gross income, for the purposes of the "New Jersey Gross Income Tax Act," N.J.S.A. 54A:1-1 et seq., shall not include amounts received as redemption for eligible student loan expenses under the "Social Services Student Loan Redemption Program," P.L. 2005, c. 157.

9A:10-2.8 Termination or suspension of the participant's employment service obligation and cancellation of the loan redemption contract by the Authority

(a) The Authority shall terminate the participant's employment service obligation and cancel the loan redemption contract if it determines:

1. On the basis of a sworn affidavit of a qualified physician that the participant is totally and permanently disabled;

2. On the basis of a death certificate, or other evidence of death that is conclusive under State law, that the participant has died;

3. On the basis of substantiating documentation as may be deemed necessary by the Authority upon specific case review that continued enforcement of the employment service obligation may result in extreme hardship for the participant;

4. On the basis of substantiating documentation, as defined in (a)3 above, that the participant has been convicted of a felony and/or a high misdemeanor, as defined in N.J.S.A. 2C:1-4.d, or has committed an act of gross negligence in the performance of his or her employment service obligation; or

5. On the basis of substantiating documentation, as defined in (a)3 above, that the participant's license to practice in his or her chosen field has been suspended or revoked.

(b) The Authority may suspend the participant's employment service obligation and the loan redemption contract if it determines, on the basis of substantiating documentation as may be deemed necessary by the Authority upon specific case review, that continued enforcement of the employment service obligation may result in extreme hardship for the participant.

1. The Authority may suspend the employment service obligation and the loan redemption contract of the program participant for a period of up to two calendar years from the date the suspension commences. At the end of the first

year of suspension, the participant must provide the Authority with substantiating documentation, as defined in (b) above, to renew the suspension for a second year.

2. The suspension, as stipulated in (b)1 above, may be extended beyond two years for exceptional circumstances at the discretion of the Authority on the basis of substantiating documentation, as defined in (b) above.

(c) Suspension or cancellation of the participant's loan redemption contract by the Authority does not suspend or cancel the program participant's student loan obligations. The participant assumes full responsibility for repayment of the full amount of his or her loan(s) or that portion of the loan(s) that has not been redeemed by the State in return for partial fulfillment of the four-year contract.

(d) The Higher Education Student Assistance Authority shall have final decision making authority to terminate a program participant's employment service obligation and cancel the loan redemption contract.

9A:10-2.9 Cancellation of the loan redemption contract by the program participant

A program participant may cancel his or her loan redemption contract with the Authority by submitting written notification to the Director of Financial Aid Services. The participant assumes full responsibility for repayment of the full amount of his or her loan(s) or that portion of the loan(s) that has not been redeemed by the State in return for partial fulfillment of the four-year contract.

9A:10-2.10 Allocation of funds for redemption of loans for an approved course of study

The Authority shall provide loan redemption to program participants for eligible student loan expenses incurred for an approved course of study, subject to the availability of funds appropriated for this purpose. Of these funds, 80 percent shall be allocated to provide loan redemption to finance the undergraduate study of program participants and 20 percent shall be allocated to provide loan redemption to finance the approved course of graduate study of program participants.

9A:10-2.11 Waiting list for eligible applicants if program funds are exhausted

(a) In the event program funds are exhausted in a given fiscal year, eligible applicants will be placed on a waiting list for loan redemption in the date order in which the Authority received their applications.

(b) If program funds become available in a given fiscal year, the next eligible applicant on the waiting list will be notified of the availability of said funds and his or her potential eligibility for program participation.

(c) If program funds do not become available in a given fiscal year, eligible applicants on the waiting list will carry over to the next fiscal year for potential eligibility for program participation, subject to program funding.

(d) While an applicant may change employment in a qualified position or to another qualified facility or agency, he or she must be continuously employed as a full-time direct care professional by a qualified facility or agency to remain on the waiting list.

(e) When an eligible applicant on the waiting list is notified of his or her potential eligibility for program participation, the applicant shall submit certification of continuous full-time employment as a direct care professional by a qualified facility or agency to the Director of Financial Aid Services.

9A:10-2.12 Appeals process

(a) When an applicant has received a notification of ineligibility for program participation, he or she may submit a written appeal to the Director of Legal and Governmental Affairs within 30 days of the date of the notification. The written appeal must include the following:

1. A copy of the notification of ineligibility received by the applicant from the Authority; and
2. The reason(s) why the applicant feels he or she is eligible to participate in the program along with any documentation which the applicant has obtained to support the appeal, if applicable.

(b) The applicant will receive a written response from the Director of Legal and Governmental Affairs concerning the determination of his or her eligibility for program participation within 30 days of the receipt of the appeal.

9A:10-2.13 Program evaluation

(a) The Authority shall annually submit a program report to the Governor and the Chairs of the Senate Budget and Appropriations, Assembly Appropriations, Senate Health, Human Services and Senior Citizens, and Assembly Health and Human Services committees, or their successor committees. The report shall be submitted no later than August 1 of each year and shall include, but not be limited to, the following information for the prior fiscal year:

1. The total number of participants receiving loan redemption under the program;
2. The approved course of study of each of the participants; and
3. The total number of participants who withdrew from the program and failed to complete the program's employment requirement.

9A:10-2.14 Reversion of participant's encumbered funds

(a) In the event that any or all loan redemption funds encumbered for a program participant are not redeemed due to the termination of the participant's employment service obligation by the Authority or cancellation of the redemption contract by the participant, such funds will revert to the

program fund and be available to enroll other eligible applicants.

(b) All unexpended program funds will carry over to the next fiscal year.

(c) The Higher Education Student Assistance Authority shall maintain the program fund containing State appropriations and carry-overs from the prior fiscal year.

SUBCHAPTER 3. OB/GYN STUDENT LOAN EXPENSE REIMBURSEMENT PROGRAM

9A:10-3.1 Purpose and scope

The rules established by this subchapter provide the policies and procedures for participation in the OB/GYN Student Loan Expense Reimbursement Program administered by the Higher Education Student Assistance Authority. This program is intended to ensure that high-quality health care continues to be available in this State and that the residents of this State continue to have access to a full spectrum of health care providers, including highly trained physicians in all specialties. However, the dramatic escalation in health care providers' insurance premiums has reportedly forced many providers to retire or move to other states where insurance premiums are lower or to drop high-risk patients and procedures and to practice defensive medicine in a manner that may significantly increase the cost of health care for all of the State's residents. This program addresses the issue of affordability for licensed obstetrician/gynecologists with outstanding eligible student loan expenses to practice in their field by providing reimbursement for these expenses in exchange for their practice in State-designated medically underserved areas pursuant to N.J.S.A. 18A:71C-35 for a period of four years from the date they receive reimbursement.

9A:10-3.2 Definitions

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

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.A. 18A:71A-3.

"Board" means the State Board of Medical Examiners.

"Commissioner" means the Commissioner of Banking and Insurance.

"Eligible student loan expenses" means the aggregate outstanding balance of principal and interest on medical school student loans provided through the NJCLASS Loan Program pursuant to N.J.S.A. 18A:71C-21 et seq. or a student loan program of the Federal government.

"Financial Aid Services" means the Financial Aid Services office, or its successor office, located within the Authority.

“Fiscal year” means the period of time beginning on July 1 of a given year and ending on June 30 of the following year.

“Legal and Governmental Affairs” means the Legal and Governmental Affairs office, or its successor office, located within the Authority.

“NJCLASS” means “New Jersey College Loans to Assist State Students” and is the acronym used to designate the State’s student loan program established pursuant to P.L. 1999, c. 46 (N.J.S.A. 18A:71C-21 through 31).

“OB/GYN” means obstetrician/gynecologist and is the medically-accepted acronym when referring to physicians practicing in this field of medicine.

“Program” means the OB/GYN Student Loan Expense Reimbursement Program established pursuant to P.L. 2004, c. 17, §29.

“Program participant” means a person who meets the eligibility, application and contractual requirements for participation in the program.

“State-designated underserved area” means a geographic area in this State which has been ranked by the Commissioner of Health and Senior Services on the basis of health status and economic indicators as reflecting a health professional shortage pursuant to N.J.S.A. 18A:71C-35.

9A:10-3.3 Listings of qualified obstetrician/gynecologists and State-designated underserved areas

(a) In accordance with P.L. 2004, c. 17, §28, the Commissioner, in consultation with the State Board of Medical Examiners, shall provide to the Authority the names of obstetrician/gynecologists licensed by the Board who may qualify for the program as required by the Authority to determine an applicant’s eligibility.

(b) A physician who has been subject to a disciplinary action or civil penalty by the Board, as set forth in N.J.S.A. 17:30D-30, shall not be eligible for the program.

(c) The Authority will obtain the list of State-designated underserved areas from the Commissioner of Health and Senior Services, as required, to determine the eligibility of practicing OB/GYNs during the course of their four year contractual agreement.

9A:10-3.4 Eligibility requirements for program participation

(a) To be eligible for participation in the program, an applicant must:

1. Be a resident of the State of New Jersey and maintain domicile in the State during participation in the program;

2. Be licensed to practice as an OB/GYN in the State of New Jersey;

3. Be named on the list of licensed obstetrician/gynecologists received by the Authority from the Commissioner pursuant to P.L. 2004, c. 17, §28;

4. Agree to practice as an OB/GYN on a full-time basis in a State-designated underserved area for a period of at least four years;

- i. An applicant must be in practice, as required in (a)4 above, no later than August 1 of the fiscal year in which the reimbursement will be paid;

5. Have outstanding eligible student loan expenses;

6. Not be in default on any student loan; and

7. Not have received, or been a participant in a program that provides, any other loan redemption or reimbursement.

9A:10-3.5 Application procedures

(a) In order to apply for participation in the program, an applicant must complete a loan reimbursement program application and submit it to the Director of Financial Aid Services no later than July 1 of the fiscal year in which the reimbursement will be paid.

1. The program application includes identifying information about the applicant, as well as contact information, current employment or anticipated employment and start date, medical school attendance and graduation, the amount of the applicant’s outstanding NJCLASS and Federal student loans and the holder of those loans.

2. Inclusive within the program application, an applicant must also have his or her current or anticipated employer certify full-time employment, or the commitment to employ full time and the start date, as an OB/GYN before submitting the application to the Director of Financial Aid Services. If the applicant is self-employed, he or she must provide the signed certification.

(b) The Authority will determine the applicant’s eligibility for the program as well as his or her employment in a State-designated underserved area based upon the information submitted and will provide notification to the applicant of his or her acceptance into the program.

(c) The Authority’s approval of program participation is subject to available funding.

9A:10-3.6 Terms for loan reimbursement

(a) An applicant, who has met the eligibility requirements for participation in the program, shall enter into a written contract with the Authority. The contract shall specify the total amount of eligible student loan expenses to be reimbursed by the State, not to exceed \$120,000, and the participant’s full-time practice requirement as an OB/GYN in

a designated underserved area in this State for a period of at least four years after receipt of the program reimbursement payment.

(b) The amount of the participant's student loan expense reimbursement is subject to the number of eligible participants and the availability of funds during the fiscal year in which the reimbursement will be paid, not to exceed \$120,000.

(c) The Authority will disburse the student loan reimbursement check(s) as a joint payment to the participant and the lender. The check(s) will be sent to the participant for signature and the participant will be responsible for forwarding the check(s) to the lender(s).

1. Program loan reimbursements are taxable income and will be reported to the Federal Internal Revenue Service and the State of New Jersey Division of Taxation.

(d) In order to continue eligibility for the student loan reimbursement payment(s) received under the program, a participant, or the participant's employer, must submit annually, by July 1 of each fiscal year, certification of his or her continued full-time employment as an OB/GYN. If a participant changes employers, he or she must provide the Authority with the termination date of the previous full-time employment and the new full-time employment name and address as well as the start date.

9A:10-3.7 Termination or suspension of the participant's employment service obligation and repayment of the student loan expense reimbursement

(a) The Authority shall terminate the participant's employment service obligation and shall not require the participant to repay any amount of the loan reimbursement if it determines:

1. On the basis of a death certificate, or other evidence of death that is conclusive under State law, that the participant has died;

2. On the basis of a sworn affidavit of a qualified physician that the participant is totally and permanently disabled; or

3. On the basis of substantiating documentation as may be deemed necessary by the Authority upon specific case review that continued enforcement of the employment service obligation may result in extreme hardship for the participant.

(b) The Authority shall terminate the participant's employment service obligation and require the participant to repay to the Authority the full amount of the loan reimbursement if it determines, on the basis of substantiating documentation, as defined in (a)3 above, that:

1. The participant has been convicted of a felony and/or high misdemeanor, as defined in N.J.S.A. 2C:1-4.d,

or has committed an act of gross negligence in the performance of his or her employment service obligation;

2. The participant's license to practice as an obstetrician/gynecologist has been suspended or revoked; or

3. The participant is not fulfilling his or her contractual service obligation under the program.

(c) The Authority may suspend the participant's employment service obligation if it determines, on the basis of substantiating documentation as may be deemed necessary by the Authority upon specific case review, that continued enforcement of the employment service obligation may result in extreme hardship for the participant.

1. The Authority may suspend the employment service obligation of the program participant for a period of up to two calendar years from the date the suspension commences. At the end of the first year of suspension, the participant must provide the Authority with substantiating documentation, as defined in (c) above, to renew the suspension for a second year.

2. The suspension, as stipulated in (c)1 above, may be extended beyond two years for exceptional circumstances at the discretion of the Authority on the basis of substantiating documentation, as defined in (c) above.

(d) Program participants who are required to repay loan reimbursement funds to the Authority must do so within 30 days of the termination of the employment service obligation by the Authority. Any amount not repaid when due will accrue interest at the prevailing Stafford Loan rate as established by the U.S. Department of Education annually.

1. Any participant who fails to repay an amount due to the Authority may be subject to litigation, offset of State tax refunds or rebates, denial, suspension or revocation of the participant's professional license, reporting negative credit information to credit reporting agencies, ineligibility for any student assistance benefits administered by the Authority and to any of the information exchange or collection procedures set forth in N.J.S.A. 18A:71C-1 et seq.

(e) The Higher Education Student Assistance Authority shall have final decision-making authority to terminate a program participant's employment service obligation and to require the participant to repay the reimbursed loan funds to the Authority.

9A:10-3.8 Cancellation of the loan reimbursement contract by the program participant

(a) A program participant may cancel his or her loan reimbursement contract with the Authority by submitting written notification to the Director of Financial Aid Services. The participant must repay the full amount of the loan reimbursement to the Authority within 30 days of canceling the contract. Any amount not repaid when due will accrue

interest at the prevailing Stafford Loan rate as established by the U.S. Department of Education annually.

1. Any participant who fails to repay an amount due to the Authority may be subject to the actions and information exchange or collection procedures as defined in N.J.A.C. 9A:10-3.7(d)1.

9A:10-3.9 Appeals process

(a) When an applicant has received a notification of ineligibility for program participation, he or she may submit a written appeal to the Director of Legal and Governmental Affairs within 30 days of the date of the notification. The written appeal must include the following:

1. A copy of the notification of ineligibility received by the applicant from the Authority; and
2. The reason(s) why the applicant feels he or she is eligible to participate in the program along with any documentation which the applicant has obtained to support the appeal, if applicable.

(b) The applicant will receive a written response from the Director of Legal and Governmental Affairs concerning the determination of his or her eligibility for program participation within 30 days of the receipt of the appeal.

SUBCHAPTERS 4 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 or the NJCLASS Graduate/Professional Students Program shall have a lower cohort default rate threshold, as set forth in N.J.A.C. 9A:10-6.4(c)2. 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 ac-

credited 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 Graduate/Professional Students Program” means an NJCLASS program targeted for graduate and professional students, whose loans are disbursed on or after June 1, 2006, with eligibility requirements specially tailored for such students, as set forth in N.J.A.C. 9A:10-6.4(c). The provisions governing NJCLASS loans in this subchapter shall apply to NJCLASS Graduate/Professional Students loans unless this subchapter otherwise provides.

“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 targeted for graduate and professional students, whose loans were disbursed prior to June 1, 2006, with eligibility requirements specially tailored for such students, as set forth in N.J.A.C. 9A:10-6.4(c). 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.
Sec: 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".

Amended by R.2006 d.403, effective November 20, 2006.

See: 38 N.J.R. 2967(a), 38 N.J.R. 4865(b).

In definition "Eligible institution", inserted "or the NJCLASS Graduate/Professional Students Program" and updated N.J.A.C. reference; added definition "NJCLASS Graduate/Professional Students Program"; and in definition "NJCLASS Variable Rate Program", deleted "Program, initiated in 1997" preceding "program", inserted ", whose loans were disbursed prior to June 1, 2006," and updated the N.J.A.C. reference.

Administrative correction.

See: 39 N.J.R. 651(b).

9A:10-6.4 Eligibility for NJCLASS Loan, NJCLASS Variable Rate Loan, NJCLASS Graduate/Professional Students 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 United States for other than temporary purposes and intend to become a permanent resident (as evidenced by United States Citizenship and Immigration Services, or its successor agency, documentation);

2. Not owe a grant refund, be in default on a student loan, 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 at least two references for the borrower, and co-borrower if applicable, and at least two references for the cosigner, and joint cosigner if applicable.

(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 United States for other than temporary purposes and intend to become a permanent resident (as evidenced by United States Citizenship and Immigration Services, or its successor agency, 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, or an NJCLASS Graduate/Professional Students 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 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 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;

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 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.

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

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

Deleted "have a student loan discharged in default" throughout.

Amended by R.2006 d.403, effective November 20, 2006.

See: 38 N.J.R. 2967(a), 38 N.J.R. 4865(b).

Section was "Eligibility for NJCLASS Loan, NJCLASS Variable Rate Loan, and NJCLASS Postgraduate Loan". In (a)1 and (b)1, substituted "United States" for "U.S." and "United States Citizenship and Immigration Services, or its successor agency," for "Immigration and Naturalization Service"; rewrote (a)4; and in the introductory paragraph of (c), inserted "or an NJCLASS Graduate/Professional Students loan for student borrowers,".

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

In (a), deleted “, and Health Education Assistance” in the third sentence.

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 that the student qualifies for a loan pending certification and request the school to certify the student's eligibility for an NJCLASS loan.

(b) The Authority shall process the application and the applicant 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).

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

Rewrote (a)2; in (b), substituted “applicant” for “borrower”.

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).

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 will only be granted if both the borrower and co-borrower qualify for the forbearance pursuant to 34 CFR 682.211(a)(3). 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, or a temporary cessation of both principal and interest payments. Interest continues to accrue during all forbearance periods.

Amended by R.2006 d.403, effective November 20, 2006.
See: 38 N.J.R. 2967(a), 38 N.J.R. 4865(b).

In introductory paragraph of (a), inserted "interest and/or" and second sentence; rewrote (a)2ii and associated subsections; inserted new (a)2iii and recodified former (a)2iii as (a)2iv; in (d), inserted second sentence and substituted " , or a temporary cessation of both principal and interest payments. Interest continues to accrue during all forbearance periods." for a period at the end.

9A:10-6.13 Consolidation Loan Program

(a) Subject to the availability of funds, the Authority offers an NJCLASS Consolidation Loan Program for the purpose of permitting existing NJCLASS borrowers and/or co-borrowers to consolidate their existing NJCLASS loans into a single fixed rate NJCLASS Consolidation loan. The purpose of the NJCLASS Consolidation Loan Program is to provide borrowers with high NJCLASS debt an extended repayment term, which provides for lower monthly payments.

(b) To participate in the NJCLASS Consolidation Loan Program, either the borrower or the co-borrower on the

NJCLASS Consolidation loan shall also be either the borrower or the co-borrower on each of the underlying loans being consolidated and shall have at least \$30,000 outstanding in current NJCLASS loans that will be consolidated.

(c) Only NJCLASS loans in monthly repayment of principal and interest are eligible for consolidation into an NJCLASS Consolidation loan. The student for whom the underlying NJCLASS loan was obtained shall no longer be enrolled in school. He or she shall have graduated or withdrawn.

(d) To be eligible for an NJCLASS Consolidation loan, the NJCLASS borrower and/or co-borrower shall:

1. Be a citizen, national or legal resident of the United States or be in the United States for other than temporary purposes and intend to become a permanent resident (as evidenced by United States Citizenship and Immigration Services, or its successor agency, documentation);

2. Not owe a grant refund, be in default on a student loan, have a student loan written off as uncollectible, or be in violation of any of the other criteria for determining creditworthiness as outlined in (f) below;

3. Provide an acceptable cosigner if the Authority determines that one is required;

4. 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 borrower's total and permanent disability, obtain a certification from a physician that the borrower's condition has improved and that the borrower is able to engage in substantial gainful employment and sign a statement acknowledging that the NJCLASS Consolidation loan that the borrower 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; and

5. Provide at least two references for the borrower, and co-borrower if applicable, and at least two references for the cosigner, and joint cosigner if applicable.

(e) The Higher Education Student Assistance Authority shall have final decision-making authority concerning the eligibility of a borrower, co-borrower and/or cosigner to participate in the NJCLASS Consolidation Loan Program.

(f) An NJCLASS Consolidation loan borrower and/or co-borrower shall meet minimum income requirements and be determined creditworthy by the Authority in order to be eligible for an NJCLASS Consolidation loan. Cosigners may be required to meet the minimum income or creditworthy determination by the Authority if the borrower or co-borrower are unable to do so.

1. To be approved for an NJCLASS Consolidation loan, a creditworthy borrower, co-borrower or cosigner shall have an

income that exceeds Federal poverty guidelines, as adjusted annually by the United States Department of Health and Human Services.

2. A borrower with one or more of the items listed below in his or her credit history may be denied an NJCLASS Consolidation 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 Consolidation Loan Program may be eligible if the borrower is able to secure a creditworthy cosigner.

(g) NJCLASS Consolidation loan borrowers and/or co-borrowers may be permitted to add additional eligible NJCLASS loans to an existing NJCLASS Consolidation loan provided sufficient funding is available and the origination period has not expired.

(h) The process to borrow under the NJCLASS Consolidation Loan Program shall be as follows:

1. The borrower shall complete the NJCLASS Consolidation Loan application and promissory note. All parts of the application and promissory note shall be completed and all requested documentation shall be submitted to the Authority.

2. The Authority shall process the application and the borrower will be notified by the Authority of his or her loan approval or disapproval.

3. The NJCLASS Consolidation loan amount will be calculated based upon the sum of the outstanding principal and interest balance of each underlying NJCLASS loan being consolidated and the NJCLASS Consolidation loan application/administrative fee, as specified in (i) below, will be charged to the borrower.

4. The Authority shall provide the borrower, co-borrower and cosigner, if any, with a completed repayment NJCLASS Consolidation Loan Disclosure Statement detailing due dates of required payments at the time of the Consolidation loan disbursement.

5. Consolidation loan proceeds will be applied to satisfy the outstanding NJCLASS loans included in the consolidation. No proceeds will be issued to the borrower. Any adjustment amount will be applied to the outstanding principal balance of the new NJCLASS Consolidation loan.

(i) NJCLASS Consolidation loan borrowers and/or co-borrowers will be required to pay a one percent application/administrative fee. This fee will be added to the sum of the outstanding principal and interest balance of each underlying NJCLASS loan being consolidated at the time of approval.

(j) The interest rate on the NJCLASS Consolidation loan will be a fixed rate based upon the weighted average interest rate of all the underlying NJCLASS loans being consolidated. The interest rate of the underlying NJCLASS loan is calculated using a blending of the applicable initial and step-up interest rates disclosed to the borrower. If the interest rate of the underlying NJCLASS loan currently reflects the step-up interest rate, the step-up interest rate will be used solely in the calculation. If a variable rate NJCLASS loan is being included in the NJCLASS consolidation, the applicable NJCLASS fixed interest rate for that academic year will be used in the calculation of the weighted average interest rate. Interest on an NJCLASS Consolidation loan will begin to accrue at the time of the loan disbursement.

(k) Late fees may be charged on an NJCLASS Consolidation loan in accordance with N.J.A.C. 9A:10-6.10.

(l) NJCLASS Consolidation loan borrowers shall begin to pay the principal and interest of the NJCLASS Consolidation loan on a monthly basis. The first payment of principal and interest is due within 60 days after the loan is disbursed. The length of the repayment term will be determined based on the amount of the NJCLASS Consolidation loan at the time of approval as follows:

1. Consolidation loan borrowers whose outstanding loan obligations are under \$60,000 will obtain a 25-year repayment term.

2. Consolidation loan borrowers whose outstanding loan obligations exceed \$60,000 will receive a 30-year repayment term.

3. The borrower and/or co-borrower have the right to repay the entire loan or any portion of the loan at any time without penalty.

4. Notwithstanding any period of forbearance, an NJCLASS Consolidation loan shall be paid in full no later than the maximum repayment term, as disclosed to the borrower at the time of disbursement.

(m) The Authority may also, at its discretion, grant borrowers periods of forbearance in the repayment of the NJCLASS Consolidation loan(s). Forbearance will only be granted if both the borrower and co-borrower qualify for the forbearance pursuant to 34 CFR 682.211(a)(3). 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). During periods of forbearance, the NJCLASS Consolidation loan will revert to quarterly payments of interest only.

(n) NJCLASS loan provisions, which pertain to delinquency, set forth in N.J.A.C. 9A:10-6.14; credit bureau reporting, set forth in N.J.A.C. 9A:10-6.15; default and consequences of default, set forth in N.J.A.C. 9A:10-6.16; discharge, set forth in N.J.A.C. 9A:10-6.17; and rehabilitation, set forth in N.J.A.C. 9A:10-6.18, shall be in effect for this Program.

Amended by R.2000 d.447, effective November 6, 2000.
 See: 32 N.J.R. 2192(a), 32 N.J.R. 3987(a).
 Repeal and New Rule, R.2006 d.403, effective November 20, 2006.
 See: 38 N.J.R. 2967(a), 38 N.J.R. 4865(b).
 Section was "Consolidation".

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 and cosigner, if any, 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 cosigner and send the borrower and cosigner a final demand letter.

(c) Delinquency may also result in the loss of eligibility for other student aid, negative credit reports and administrative wage garnishment.

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".
 Amended by R.2003 d.465, effective December 1, 2003.
 See: 35 N.J.R. 2770(b), 35 N.J.R. 5415(b).
 In (b), inserted references to cosigner following borrower throughout.
 Amended by R.2006 d.403, effective November 20, 2006.
 See: 38 N.J.R. 2967(a), 38 N.J.R. 4865(b).
 Added (c).

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 and/or cosigner, if any, are 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 and professional 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".

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

In (b), inserted a reference to cosigner following borrower in the first sentence, and inserted "and professional" following "occupational" in the last sentence.

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.

9A:10-6.18 Rehabilitation

(a) Effective no earlier than June 1, 1999, the Authority may offer a rehabilitation program for NJCLASS loans. If the Authority offers a rehabilitation program for NJCLASS loans, the Authority shall notify NJCLASS borrowers of the availability of this program. In the event the Authority offers a rehabilitation program for NJCLASS loans, an NJCLASS borrower who has defaulted on an NJCLASS loan is permitted to rehabilitate the loan with an enforceable promissory note and remove that loan from default status, provided the borrower satisfies the requirements of (c) below. A defaulted NJCLASS loan may be rehabilitated only once.

(b) An NJCLASS loan is considered to be rehabilitated only after the borrower has made one voluntary full payment each month and the payment is received by the Authority within 15 days of the scheduled due date for 12 consecutive months, with no deferments or forbearances permitted during the 12 month period.

(c) An NJCLASS borrower may request the rehabilitation of the borrower's defaulted NJCLASS loan held by the Authority. The borrower shall make one voluntary full payment each month for 12 consecutive months to be eligible to have the defaulted loans rehabilitated. For purposes of this section, "full payment" means the minimum acceptable monthly payment as defined in N.J.A.C. 9A:10-6.11(d).

"Voluntary payments" are those made directly by the borrower regardless of whether there is a judgment against the borrower, and do not include payments obtained by income tax offset, garnishment, or income or asset execution.

(d) The maximum repayment period for a rehabilitated NJCLASS loan shall be the same as that of the NJCLASS loan prior to default. A borrower who wishes to rehabilitate a loan on which a judgment has been entered must sign a new promissory note. The maximum repayment period of the new promissory note shall be the same as that of the NJCLASS loan prior to default. Once an NJCLASS loan subject to a judgment has been rehabilitated, the Authority shall have the judgment marked satisfied.

(e) The Authority shall report to a national credit bureau within 30 days of the date the loan was rehabilitated that the loan is no longer in a default status, and is now in a "current was collection account" status.

(f) The Authority may elect to hold the rehabilitated loan directly, or transfer the loan to another lender, including, but not limited to, the trustee of the trust estate held for the benefit of NJCLASS Program bondholders.

Amended by R.1998 d.534, effective November 16, 1998.

See: 30 N.J.R. 2805(a), 30 N.J.R. 4041(b).

Rewrote (a), (c) and (d); in (b), deleted "reasonable and affordable" following "voluntary", and added ", with no deferments or forbearances permitted during the 12 month period" at the end; and in (e), added ", and is now in a 'current was collection account' status" at the end.

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

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

In (c), amended the N.J.A.C. reference.

9A:10-6.19 Authority enforcement requirements for schools participating in the NJCLASS Program

(a) To assess the administrative and financial capability of a school participating in the NJCLASS Program, the Authority may expand the scope of either a FFEL Program review or a State scholarship and Tuition Aid Grant management review to cover the NJCLASS Program.

(b) In the event a school is selected for review, the Authority shall provide the school at least 30 days notice of the date of the on-site review. The Authority shall also notify the school of the financial and administrative information required for the on-site visit.

(c) The school shall be required to 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.

(d) The program review follow up procedures set forth in N.J.A.C. 9A:10-1.18(g) shall apply to NJCLASS Program reviews, with the exception of notifications to the United States Department of Education and Federal limitation, suspension, or termination actions.

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

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

In (d), amended the N.J.A.C. reference.

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

9A:10-7.1 Purpose

The rules established by this subchapter are designed to promote savings for college through a college savings program that provides Federal and State tax benefits to participants.

9A:10-7.2 Scope

The requirements set forth under this subchapter cover the administration, the policies and the procedures for participation in the New Jersey Better Educational Savings Trust (NJBEST) Program.

9A:10-7.3 Definitions

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

“Account” means an individual trust account or savings account established as prescribed in this subchapter.

“Authority” means the New Jersey Higher Education Student Assistance Authority.

“Cash” means cash, check, money order or wire transfer.

“Contributor” means the person or organization who opens the account and maintains the account and has the right to withdraw monies from the account before the account is disbursed to the designated beneficiary.

“Designated beneficiary” means:

1. The person designated at the time the account is opened as the person whose higher education expenses are expected to be paid from the account;

2. The replacement beneficiary if the change in designated beneficiary would not result in a distribution that is included in Federal gross income under section 529 of the Federal Internal Revenue Code; and

3. In the case of an interest in the program established under P.L. 1997, c.237 purchased by a state or local government or an organization described in section 501(c)(3) of the Federal Internal Revenue Code as a part of a scholarship program operated by the government or organization, the person receiving this interest as a scholarship.

“Disability” means a condition under which an individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be disabled unless he or she

furnishes proof of the existence thereof in the form of a certification by a physician who is a doctor of medicine or osteopathy and legally authorized to practice in a state that the individual is disabled.

“Higher education institution” means an eligible educational institution as defined in or for purposes of section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529, except that with respect to proprietary institutions, only degree granting programs licensed or approved by the Commission on Higher Education shall be included in the definition of higher education institution for purposes of N.J.A.C. 9A:10-7.15, and only proprietary institutions participating in a Title IV, Higher Education Act of 1965 program shall be included in the definition of higher education institution for all other purposes of this subchapter.

“Investment Manager” means the Division of Investment in the Department of the Treasury or the private entity or entities authorized to do business in this State as may be designated by the Authority to invest the funds of the trust pursuant to the terms of P.L. 1997, c.237.

“Member of the family” means, with respect to any designated beneficiary:

1. A son or daughter, or a descendant of either;
2. A stepson or stepdaughter;
3. A brother, sister, stepbrother, or stepsister;
4. The father or mother, or an ancestor of either;
5. A stepfather or stepmother;
6. A son or daughter of a brother or sister;
7. A brother or sister of the father or mother;
8. A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law;
9. A first cousin;
10. The spouse of any individual described in paragraphs 1 through 8 of this definition; and
11. Any other member of the family as defined in or for purposes of section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529.

For purposes of this definition, a legally adopted child of an individual shall be treated as the child of such individual by blood.

“NJBEST scholarship” means a scholarship funded by the State of New Jersey for a designated beneficiary’s undergraduate attendance at a higher education institution in New Jersey, as more fully described in N.J.A.C. 9A:10-7.15.

“Nonqualified withdrawal” means a withdrawal from an account other than:

1. A qualified withdrawal;

2. A withdrawal made as the result of the death or disability of the designated beneficiary of any account;

3. A withdrawal made on account of a scholarship (or allowance or payment described in subparagraphs (B) or (C) of paragraph (1) of subsection (d) of section 135 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 135) received by the designated beneficiary, but only to the extent of the amount of that scholarship, allowance or payment; or

4. A rollover or change in designated beneficiary which would not result in a distribution includible in Federal gross income under section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529.

“Program” means the New Jersey Better Educational Savings Trust (NJBEST) Program established pursuant to P.L. 1997, c.237.

“Qualified higher education expenses” means:

1. Tuition, fees, books, supplies, and equipment required for enrollment or attendance of a designated beneficiary at a higher education institution. Qualified higher education expenses shall also include room and board for a designated beneficiary at a higher education institution provided that the designated beneficiary is enrolled at least half-time (one half the normal full-time work load for the course of study the designated beneficiary is pursuing), and provided that the amount shall not exceed the minimum amount applicable to the designated beneficiary for room and board for such period in the cost of attendance defined by the Higher Education Act of 1965, 20 U.S.C. § 108711, for the higher education institution for such period; and

2. Expenses for special needs services in the case of a special needs beneficiary, who is the designated beneficiary, which are incurred in connection with such enrollment or attendance, as permitted under section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529.

“Qualified withdrawal” means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account.

“Scholarship account” means a NJBEST account opened by any state or local government (or agency or instrumentality thereof) or an organization described in section 501(c)(3) of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 501, and exempt from taxation under section 501(a) of the Federal Internal Revenue Code for a designated beneficiary as part of a scholarship program operated by such government or organization under which the designated beneficiary need not be identified until such time as a withdrawal is made on behalf of the designated beneficiary who shall receive this interest in the program as a scholarship.

“Subcontractor investment manager” means any financial services firm that has been approved by the Authority and is operating under a subcontract with the Investment Manager approved by the Authority and that is expected to offer accounts with high quality investment options, products and programs subject to the same investment performance standards as apply to accounts offered by the Investment Manager. Any such subcontract may require that substantially all of the accounts in the program managed by a subcontractor investment manager be opened by persons residing outside of New Jersey.

“Successor contributor” means the person designated by the contributor to succeed the contributor in the event of the death of the contributor. The successor contributor would then have the right to continue to maintain the account and to withdraw monies from the account before the account is disbursed to the designated beneficiary.

“Trust” means the New Jersey Better Educational Savings Trust (NJBEST) established under P.L. 1997, c.237.

Amended by R.1998 d.385, effective August 3, 1998.

See: 30 N.J.R. 1707(a), 30 N.J.R. 2908(a).

In “NJBEST scholarship”, changed N.J.A.C. reference.

Amended by R.1998 d.534, effective November 16, 1998.

See: 30 N.J.R. 2805(a), 30 N.J.R. 4041(b).

Rewrote “Higher education institution”.

Amended by R.2002 d.289, effective September 3, 2002.

See: 33 N.J.R. 4053(a), 34 N.J.R. 3086(a).

Amended the N.J.A.C. reference in “Higher education association” and “NJBEST scholarship”; amended “Member of the family”, “Non-qualified withdrawal”, “Qualified higher education expenses” and “Qualified withdrawal”; added “Successor contributor”.

Amended by R.2003 d.343, effective August 18, 2003.

See: 35 N.J.R. 1483(a), 35 N.J.R. 3828(b).

Added “Scholarship account”.

Amended by R.2004 d.138, effective April 5, 2004.

See: 35 N.J.R. 5532(a), 36 N.J.R. 1777(a).

Added “Subcontractor investment manager”.

Amended by R.2004 d.313, effective August 16, 2004.

See: 36 N.J.R. 1656(a), 36 N.J.R. 3880(a).

Rewrote “Contributor” and “Successor contributor”; in “Member of the family” substituted 8 for 9 in 10.

9A:10-7.4 Procedure for opening an account

(a) The program shall be operated as a trust through the use of accounts for designated beneficiaries. An account may be opened by any person who desires to save to pay the qualified higher education expenses of a person by satisfying each of the following requirements:

1. Completing an application in the form prescribed by the Authority and thereby entering into a participation agreement with the Authority. The application shall include identifying information about the contributor, the successor contributor, if any, and the designated beneficiary, information about the amount and method of contribution, and residency information if applicable;

2. Making the minimum contribution required by the Authority for opening an account, which shall be \$25.00;