

CHAPTER 14
RULES AND PROCEDURES FOR IMPLEMENTATION OF THE HIGHER EDUCATION EQUIPMENT LEASING FUND ACT

Authority

N.J.S.A. 18A:72A-40 and P.L. 1993, c.136.

Source and Effective Date

R.1999 d.160, effective May 17, 1999.
See: 31 N.J.R. 588(a), 31 N.J.R. 1332(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 14, Rules and Procedures for Implementation of the Higher Education Equipment Leasing Fund Act, expires on November 13, 2004. See: 36 N.J.R. 2133(a).

Chapter Historical Note

Chapter 14, Rules and Procedures for Implementation of the Higher Education Equipment Leasing Fund Act, was originally codified in Title 9 as Chapter 17, Rules and Procedures for Implementation of the Higher Education Equipment Leasing Fund Act. Chapter 17 was adopted as R.1994 d.94, effective February 22, 1994. See: 25 N.J.R. 5747(a), 26 N.J.R. 1086(a).

Chapter 17, Rules and Procedures for Implementation of the Higher Education Equipment Leasing Fund Act, was recodified as N.J.A.C. 9A:14 by R.1995 d.113, effective February 21, 1995. See: 26 N.J.R. 4878(a), 27 N.J.R. 682(a).

Pursuant to Executive Order No. 66(1978), Chapter 14, Rules and Procedures for Implementation of the Higher Education Equipment Leasing Fund Act, expired on February 22, 1999.

Chapter 14, New Jersey Educational Facilities Authority Rules and Procedures for Implementation of the Higher Education Equipment Leasing Fund Act, was adopted as new rules by R.1999 d.160, effective May 17, 1999. See: 31 N.J.R. 588(a), 31 N.J.R. 1332(a).

Administrative change. See: 33 N.J.R. 569(a).

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 9A:14-1.1 Purpose and authority
- 9A:14-1.2 Definitions
- 9A:14-1.3 Process for purchase of higher education equipment
- 9A:14-1.4 Payment of principal and interest
- 9A:14-1.5 Allocation of funds
- 9A:14-1.6 Reporting requirements

SUBCHAPTER 1. GENERAL PROVISIONS**9A:14-1.1 Purpose and authority**

The rules in this chapter are established to implement the Higher Education Equipment Leasing Fund Act, P.L. 1993, c.136 (the "Amending Act"), an act supplementing the New

Jersey Educational Facilities Authority Act, N.J.S.A. 18A:72A-1 et seq. (collectively the "Act").

9A:14-1.2 Definitions

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

"Act" means the New Jersey Educational Facilities Authority Act, N.J.S.A. 18A:72A-1 et seq.

"Amending Act" means the Higher Education Equipment Leasing Fund Act, P.L. 1993, c.136.

"Authority" means the New Jersey Educational Facilities Authority or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the Authority shall be given by law.

"Board" means the former State Board of Higher Education.

"Bond" or "bonds" means bonds or notes of the Authority issued pursuant to the authority granted by the Amending Act.

"Chair" means the Chair of the Commission on Higher Education.

"Commission" means the Commission on Higher Education.

"Emerging needs program" means a degree program, function or activity at one or more public or private institutions of higher education directed to meeting new and advanced technology needs within an existing academic program, or to support new academic programs in science and technology or to support new instructional technologies, as solely determined by the Commission.

"Equipment" means any property consisting of, or relating to, scientific, engineering, technical, computer, communications or instructional equipment for use by institutions.

"Executive Director" means the Executive Director of the Commission on Higher Education.

"Institution" means a public or private institution of higher education as defined in the Act.

"Lease agreement" means any lease agreement by and between the Authority and any participating institution relating to the Higher Education Equipment Leasing Fund.

Amended by R.1995 d.113, effective February 21, 1995.
See: 26 N.J.R. 4878(a), 27 N.J.R. 682(a).

9A:14-1.3 Process for purchase of higher education equipment

(a) Upon approval by the governing board of an institution or an entity authorized to act on their behalf, participating institutions shall propose equipment purchases to the Commission to be acquired with the proceeds of bonds. No proposal shall be for an amount less than 25 percent of the respective institution's total allocation pursuant to N.J.A.C. 9A:14-1.5 or \$1,000,000, whichever is less, unless it is for the final portion of its allocation. Proposals shall include information concerning:

1. A copy of the governing board or authorized entity resolution approving the institution's purchase and a brief description of the process used to generate the request;
2. How the proposed purchase relates to the current institutional mission and plans;
3. The program or function to be served by the equipment, including specific educational objectives to be met;
4. The equipment and number of units to be purchased and the estimated cost of the equipment to be purchased;
5. The useful life of the equipment determined either by reference to the Internal Revenue Service's Class Life Asset Depreciation Range System set forth in Revised Procedure 87-56, as amended, supplemented or superseded, or by appraisal of any independent engineering or accounting firm as appropriate;
6. The estimated timetable for the acquisition and installation of the equipment;
7. The source of revenue to pay the institution's annual share of principal and interest on bonds issued to acquire equipment for use by the institution; and
8. Other information as may be required by the Executive Director on a case by case basis and relating to a specific proposal.

(b) Proposals shall be submitted in a format provided by the Commission.

(c) Descriptions of the equipment submitted in the proposal may be illustrative, and the equipment to be purchased may be changed as a result of the bidding processes, advances in technology, or for other reasons provided that the equipment had been approved by the governing board of the affected institution and by the Board (for transactions before July 1, 1994) or Commission.

(d) Equipment to be purchased must be approved at a public meeting of the Commission.

(e) The total dollar amount of purchases approved for any institution shall not exceed the institution's allocation as approved by the Board (for allocations made before July 1, 1994) or Commission.

(f) The Commission shall forward to the Authority requests for equipment approved by Commission resolution.

(g) Lease agreements with institutions for the lease-purchase of equipment approved by the Commission shall require the respective institution to pay to the Authority 25 percent of the principal and interest on the bonds to be issued to finance the equipment purchase for the respective institution.

(h) The Authority shall not issue bonds to finance the equipment purchases with terms exceeding the useful life of the equipment to be purchased and in no case exceeding 10 years.

(i) No bonds shall be issued by the Authority without the prior written consent of the State Treasurer.

(j) Proceeds from the sale of bonds shall cover the cost of bond issuance and administrative costs of the program.

(k) Any purchase of equipment by an institution shall be in the name of the Authority. The Authority shall hold title to the equipment until the bonds issued to finance the purchases have been repaid whereupon title shall be transferred to the respective institutions at their cost.

Amended by R.1995 d.113, effective February 21, 1995.
See: 26 N.J.R. 4878(a), 27 N.J.R. 682(a).

9A:14-1.4 Payment of principal and interest

(a) The State Treasurer shall contract with the Authority to pay to the Authority the amount necessary to pay the principal and interest on all bonds subject to annual appropriation.

(b) Each institution shall pay the Authority (or the bond trustee) 25 percent of the principal and interest on bonds deemed issued to acquire equipment for the institution and in accordance with its lease agreement.

(c) Upon receipt, the Authority (or the bond trustee) shall remit all such payments immediately to the State Treasurer.

(d) If an institution fails or is unable to pay to the Authority in full, when due, any such obligation of an institution to the Authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or an appropriation payable to the institution. As used in this section, "obligation of an institution" means any amount payable by the institution under a lease agreement to meet principal and interest on the bonds issued to acquire equipment for the institution under this program. The Authority shall notify the State Treasurer of the amount to be retained to satisfy the obligation of each institution. A copy of such notification shall be submitted to the Commission.

Amended by R.1995 d.113, effective February 21, 1995.

See: 26 N.J.R. 4878(a), 27 N.J.R. 682(a).

9A:14-1.5 Allocation of funds

(a) The money deposited into the fund created pursuant to section 5 of the Amending Act shall initially be allocated in the following manner:

1. \$24,000,000 for the leasing of equipment to State colleges;
2. \$19,440,000 for the leasing of equipment to Rutgers, the State University;
3. \$10,080,000 for the leasing of equipment to the University of Medicine and Dentistry of New Jersey;
4. \$6,480,000 for the leasing of equipment to the New Jersey Institute of Technology;
5. \$22,000,000 for the leasing of equipment to the county colleges;
6. \$10,500,000 for the leasing of equipment to private institutions; and
7. \$7,500,000 for the leasing of equipment for the emerging needs programs at institutions.

(b) The Commission shall, by resolution, allocate funds to individual State colleges, county colleges, and private institutions of higher education within the sector allocations above.

(c) The Commission may reallocate to any institution or to the "emerging needs program" any balance in the amounts authorized if the amounts are not committed within 18 months of the effective date of the Amending Act (June 5, 1993) or within 18 months of subsequent allocations by the Commission. Funds will be considered committed when a lease agreement has been entered into between an institution and the Authority.

(d) No reallocation shall be made pursuant to (c) above if:

1. The request for approval has been received by the Commission within 15 months of June 5, 1993 or within 18 months with respect to any amounts that are reallocated or subsequently allocated by the Commission; or
2. The facility in which the equipment will be housed is under construction or renovation;

3. Delays are the result of Federal, State, or local governmental approvals or regulatory requirements not attributable to the institution; or

4. Other compelling and documentable reasons exist as determined by the Commission.

(e) An institution's inability to secure the necessary funds to pay the 25 percent principal and interest payments on bonds issued to finance equipment for such institutions shall not constitute good cause for not committing funds as required in (c) above.

(f) The Executive Director shall contact all institutions to which funds have been allocated 15 months following such allocation to determine what, if any, funds will become available for reallocation at 18 months.

(g) The Commission shall determine the allocation of money available from the authorization of new bonds by the Treasurer as a result of the retirement of bonds previously issued by the Authority pursuant to the Amending Act.

(h) The Chair shall periodically establish and notify institutions of priority areas for the use of funds for emerging needs programs to meet new and advanced technology needs or support new academic programs in science and technology. Institutions may submit an application for funds for a program within the priority areas. The Chair shall review applications on a case by case basis and make recommendations for Commission approval to fund emerging needs programs.

Amended by R.1995 d.113, effective February 21, 1995.
See: 26 N.J.R. 4878(a), 27 N.J.R. 682(a).

9A:14-1.6 Reporting requirements

The Authority shall report its equipment purchases to the Commission once in each year in which equipment purchases are made. The Commission then shall report to the Governor and the Legislature on equipment purchases that have been approved by the Commission and financed through this program.

Amended by R.1995 d.113, effective February 21, 1995.
See: 26 N.J.R. 4878(a), 27 N.J.R. 682(a).