

3. The name of the responsible official and the responsible official's telephone number;

4. A demonstration as set forth at (b) above;

5. A statement as to whether the owner or operator of the facility anticipates that conditions at the facility may change in such a manner so that the requirements of this subchapter may again become applicable to the facility in the future and, therefore, the facility may become obligated to recommence submission of boiler fleet reports; and

6. A certification, signed by the responsible official, in accordance with N.J.A.C. 7:27-1.39.

(d) A claim of non-applicability shall be submitted to the address listed at N.J.A.C. 7:27F-4.5(c).

(e) If an administratively complete claim of non-applicability is received between February 2 of the preceding calendar year and February 1 of the current calendar year, the Department will respond by April 1. The Department's response will set forth the Department's determination as to whether the Department concurs that this subchapter no longer applies to the facility. The Department will not approve any claim of non-applicability unless it is satisfied that:

1. The facility has made the demonstration required pursuant to (b) above; and

2. The facility will not in the foreseeable future change in such a manner that the facility would be subject to the reporting requirements of this subchapter.

(f) An owner or operator who has submitted a claim of non-applicability shall continue to submit a boiler fleet report in each submittal year unless the owner or operator has received a response from the Department on or before April 1 of that year, that states that the Department concurs with the claim of non-applicability and approves discontinuance of submission of boiler fleet reports for the facility. Failure of the Department to respond by April 1 to the submission of a claim of non-applicability does not relieve the owner or operator of the responsibility to submit a boiler fleet report, nor does it constitute the Department's concurrence with the claim of non-applicability.

(g) An approval of a claim of non-applicability will not relieve the facility's obligation to submit a boiler fleet report to the Department, if the facility becomes subject to the requirements of this subchapter after the Department issues the approval.

#### 7:27F-4.10 Recordkeeping

(a) For each boiler fleet report submitted to the Department, the owner or operator of the facility shall maintain the following records at the facility for a period of five years from the date each report is due:

1. A copy of each boiler fleet report submitted to the Department;

2. Records indicating how the information submitted in the boiler fleet report was determined, including any calculations, data, measurements, and estimates used; and

3. Each written justification required pursuant to N.J.A.C. 7:27F-4.7 documenting the basis for the selection of the method for quantifying emissions.

(b) Upon the request of the Department, the owner or operator of the facility shall make these records available at the facility for inspection by any representative of the Department during normal business hours.

(c) Upon receipt of a written request from the Department, the owner or operator of the facility shall timely submit a copy of any or all of the records specified at (a) above to the Department by mail or by other means as agreed to by the Department.

#### 7:27F-4.11 Affirmative defense in case of emergency

(a) On or after January 1, 2025, a facility may assert an affirmative defense for installing a fossil fuel-fired boiler to replace an existing fossil fuel-fired boiler; however, the affirmative defense is subject to review and approval by the Department. The affirmative defense shall be available for a violation of a provision or condition of this subchapter only if:

1. The installation of a fossil fuel-fired boiler to replace an existing fossil fuel-fired boiler is required by an emergency, as defined at N.J.A.C. 7:27F-4.1;

2. The facility submits an application for a permit or permit modification pursuant to N.J.A.C. 7:27F-4.4(a)2 no later than 30 days after the installation; and

3. The facility asserts the affirmative defense in its application for a permit or permit modification, by providing evidence that establishes both the emergency situation and the facility's eligibility for a permit pursuant to N.J.A.C. 7:27F-4.4(a)2.

## HIGHER EDUCATION

### (a)

#### HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

##### Grant and Scholarship Programs

##### Proposed Readoption with Amendments: N.J.A.C. 9A:9

Authorized By: Higher Education Student Assistance Authority,  
Christy Van Horn, Chairperson.

Authority: N.J.S.A. 18A:71A-1 et seq., 18A:71B-1 et seq.,  
18A:71B-7, 18A:71B-12, 18A:71B-19, 18A:71B-23, 18A:71B-23.7,  
18A:71B-24.3, 18A:71B-25, 18A:71B-86, and 18A:71B-86.6.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2021-114.

Submit written comments by February 4, 2022, to:

Marnie B. Grodman, Esquire  
Administrative Practice Officer  
Higher Education Student Assistance Authority  
PO Box 545  
Trenton, NJ 08625-0545  
Email: [Regulations@hesaa.org](mailto:Regulations@hesaa.org)

The agency proposal follows:

#### Summary

The Higher Education Student Assistance Authority (Authority) proposes to readopt N.J.A.C. 9A:9, rules governing grant and scholarship programs, with amendments. Pursuant to N.J.S.A. 52:14B-5.1, the rules in this chapter were scheduled to expire November 6, 2021. In accordance with N.J.S.A. 52:14B-5.1.c(2), the submission of this notice of proposal to the Office of Administrative Law prior to that date extended the November 6, 2021, expiration date 180 days to May 5, 2022.

Pursuant to N.J.S.A. 18A:71A-1 et seq., the Authority is statutorily responsible for the administration of State scholarship and tuition aid programs and for the promulgation of all rules to that effect. The Authority has reviewed the rules and determined that they continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules proposed for readoption with amendments will continue to provide the Authority with the ability to administer the grant and scholarship programs in an efficient and economic matter. To ensure the continued efficient administration and operation of these programs, the Authority is proposing the readoption of this chapter with amendments to provide additional clarity in the eligibility requirements for participation and application, enrollment criteria, and continued payment of awards for students attending participating New Jersey institutions, all of which are summarized below.

Subchapter 1 sets forth the responsibilities of the Higher Education Student Assistance Authority and details the structure and mission of the Student Advisory Committee, as created by the Authority.

The proposed amendments at N.J.A.C. 9A:9-1.2 update and clarify the qualifications for members of the Student Advisory Committee. In order to provide the perspective of the students who are potentially eligible for

the majority of the programs the Authority administers, Student Advisory Committee membership has always been limited to undergraduate students because the majority of the programs the Authority administers are limited to undergraduate students. The proposed amendments codify this practice by specifically stating that Student Advisory Committee members must be undergraduate students.

Additionally, pursuant to N.J.S.A. 18A:64M-1 et seq., and 18A:64N-1 et seq., Rowan University and Montclair State University are now part of the public research university sector instead of the State universities and State colleges sector. To ensure the Student Advisory Committee meets the N.J.S.A. 18A:71A-5b requirement to include students from all collegiate institutional sectors, the proposed amendment at N.J.A.C. 9A:9-1.2 replaces “one student from the New Jersey Institute of Technology” with “the public research universities.” Since the proposed amendment is adding schools to one of the sectors, to ensure there are more opportunities for students from each school to serve on the Student Advisory Committee, instead of specifying how many students must represent each sector, the proposed amendments require, “at least one, but no more than three” representatives from each of the five institutional sectors. This proposed amendment balances the need to represent each of the sectors with the challenges in ensuring a full complement of Student Advisory Committee members when there is a dearth of student applicants from one or more sectors.

Subchapter 2 details the general provisions for the overall administration and eligibility for the Tuition Aid Grant and Garden State Scholarship Programs and for participation by eligible New Jersey institutions under these programs.

N.J.A.C. 9A:9-2.1(a) states that students possessing an undergraduate degree are not eligible for student assistance at that level. This subsection has caused confusion for some students who asked whether they would be eligible for student assistance for an associate degree if they already possess a baccalaureate degree. To alleviate this confusion, the proposed amendment at N.J.A.C. 9A:9-2.1(a) specifies that students possessing an associate degree are not eligible for student assistance at that degree level and students possessing a baccalaureate degree are not eligible for student assistance at the associate or baccalaureate level.

P.L. 2019, c. 201, as amended by P.L. 2021, c. 211 (N.J.S.A. 18A:3B-6b), requires institutions of higher education to provide each prospective and enrolled student with a financial aid shopping sheet for the upcoming academic year, using the model format prescribed by the Secretary of Higher Education or the most current financial aid shopping sheet developed by the United States Department of Education or the Consumer Financial Protection Bureau. The purpose of the shopping sheet is to provide students and their families with clear information on the costs, loan options, and estimated debt that the student will incur in attending the institution, and to allow prospective students and their families to easily evaluate and compare financial aid packages from different institutions. As authorized at N.J.S.A. 18A:71B-1, proposed new N.J.A.C. 9A:9-2.1(b)5ii reinforces the purpose of the shopping sheet by amending the definition of an eligible institution to require institutions to provide a financial aid shopping sheet, as prescribed at N.J.S.A. 18A:3B-6b, to each prospective and returning student as part of the financial aid offer. This proposed amendment assists students in making an informed decision about where to enroll and invest both their personal funds and the financial assistance the State expends on their behalf.

On April 19, 2021, Governor Murphy signed P.L. 2021, c. 53, which eliminates eligibility of postsecondary students and other individuals for State student assistance if the institution they plan to attend requires students to consent to arbitration agreements or proceedings, or to waive their rights to pursue complaints in any forum. Proposed new N.J.A.C. 9A:9-2.1(b)6 implements P.L. 2021, c. 53, by amending the definition of an eligible institution to exclude from eligibility any institution that requires students to engage in binding arbitration or waive any of the rights enumerated at P.L. 2021, c. 53.

The proposed amendments at N.J.A.C. 9A:9-2.2(a)1 implement the January 8, 2020, amendments at N.J.S.A. 18A:71B-2.3, which defines residency for dependent students.

Proposed new N.J.A.C. 9A:9-2.4(a)1 updates the subsection to conform to N.J.S.A. 18A:71B-2.5, which was effective September 14,

2020, and requires parents of dependent students to submit financial information to complete their child’s financial aid application.

The proposed amendment at N.J.A.C. 9A:9-2.6(a) updates the reference to the United States Department of Education in the Federal Student Aid Handbook to the current addition, with the new web address to locate it as well.

The proposed amendment at N.J.A.C. 9A:9-2.6(b) clarifies the current policy that, unlike Federal student financial aid programs, for State student financial aid programs, students are not considered independent if they are either currently, or when they were a minor were, in a legal guardianship status, in which a parent retained legal parental rights or is obligated to pay child support. Parents of students in these guardianship statuses retain similar obligations as parents of other dependent students, and, therefore, are required to provide their financial information to determine their child’s eligibility for need-based aid.

To discourage families from fraudulently attempting to have a student determined as independent, which would result in an erroneous calculation of the student’s eligibility for need-based aid by not taking the parents’ income into consideration, proposed new N.J.A.C. 9A:9-2.6(b)3 articulates the Authority’s current policy regarding the bases on which individual determinations of independent student status shall not be made. These bases are: parent’s refusal; the parent’s unwillingness to provide information on the financial aid application or for verification; the parent’s decision not to claim the student as a dependent for income tax purposes; the student’s demonstration of self-sufficiency; or the fact that the student does not live with the parent.

The proposed amendments at N.J.A.C. 9A:9-2.7 simplify the income verification process for families who are not required to file income tax returns or whose tax returns show an adjusted gross income of zero. The proposed amendment reduces from two to one the number of means-tested programs from which families must provide the Authority with documented proof of benefits received. The proposed amendment also revises the list of acceptable benefits to include all Federal and State programs that support a family’s basic needs for survival: food, income support, and shelter. The benefits, as amended, include SSI, SNAP, TANF, WorkFirst NJ, General Assistance, cash assistance, housing and rental assistance subsidies, and WIC.

Subchapter 3 provides the rules for determining a student’s eligibility under the Tuition Aid Grant (TAG) Program and the value of the TAG award as it relates to the student’s tuition charges and ability to pay for educational costs on a full-time or part-time basis at an eligible New Jersey institution. The TAG rules supplement the general provisions for Grant and Scholarship programs as set forth at N.J.A.C. 9A:9-2.

Subchapter 4 specifies the requirements that students must meet to qualify for awards under the Garden State Scholarship Program, which includes students in the program categories of Edward J. Bloustein Distinguished Scholars, Urban Scholars, and Garden State Scholars. This program recognizes those students who demonstrate high academic achievement based upon their secondary school class rank or a combination of class rank and Scholastic Assessment Test (SAT) scores or secondary school grade point average (GPA). This program provides scholarship awards of up to \$1,000 annually without regard to financial need. The Garden State Scholarship Program is currently not funded.

Subchapter 5 contains the rules for the Survivor Tuition Benefits Program, which provides free tuition for any child or surviving spouse of a member, officer, or worker of an emergency service, law enforcement, or civil defense agency killed in the performance of duty under the Survivor Tuition Benefits Program. An eligible child or surviving spouse who wishes to attend any public institution of higher education in New Jersey may enroll as an undergraduate student and have their tuition paid by the State while in good standing at that college or university. Such child or spouse may also attend any independent institution in New Jersey; however, the annual value of the grant cannot exceed the highest tuition charged at a New Jersey public institution. Recipients must enroll on at least a one-half time basis in an undergraduate degree program and be in good academic standing.

Subchapter 6 specifies the rules governing the Miss New Jersey Educational Scholarship Program, which provides for an annual award equal to the cost of tuition to an individual who has been designated by the Authority, in consultation with the Miss New Jersey Pageant

Organization, as demonstrating exceptional leadership in the area of civic, cultural, or charitable endeavors in the spirit of the Miss New Jersey Pageant. To receive and maintain the scholarship, the individual must be enrolled in a full-time course of study leading to an initial bachelor's degree or a postgraduate degree at any public institution of higher education in New Jersey. This program is currently not funded.

Subchapter 7 contains the rules for providing scholarships under the New Jersey World Trade Center Scholarship Program. This program provides scholarships for the costs of undergraduate study at an eligible institution of higher education to the dependent children or surviving spouses of New Jersey residents who were killed in the terrorist attack on the United States on September 11, 2001, who died as a result of injuries received in the attack, who die as a result of illness caused by exposure to the attack sites, or who are missing and officially presumed dead as a direct result of the attack. The scholarship pays up to the annual cost of attendance at the highest cost public institution of higher education in New Jersey, as determined by that institution.

Subchapter 8 provides the rules governing the policy, administration, and procedures of the Law Enforcement Officer Memorial Scholarships (LEOMS) Program. Under this program, scholarships are provided for the annual costs of undergraduate study at an eligible New Jersey institution of higher education to the children of New Jersey law enforcement officers, as defined at N.J.S.A. 18A:71B-24.2, who were killed in the line of duty. The scholarship will pay up to the student's cost of attendance at the institution that is not otherwise covered by any other scholarship, tuition aid grant, benefit, or other assistance awarded to the recipient under the Higher Education Student Assistance Authority Law, N.J.S.A. 18A:71A-1 et seq.

A new Subchapter 9 was proposed for adoption in the June 7, 2021 New Jersey Register (see 53 N.J.R. 994(a)). Subchapter 9 will govern the policy, administration, and procedures of the Community College Opportunity Grant Program (CCOG). CCOG provides financial aid grants to eligible county college students to cover the costs of tuition and approved educational fees that are not already covered by any other State, Federal, and institutional need-based grants or merit scholarships.

Subchapter 10 sets forth the policies and procedures for the New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS). This program recognizes the academic achievements of New Jersey high school students who graduate in the top 15 percent of their graduating class by providing a scholarship for the cost of tuition for eligible students who enroll in a full-time course of study at the New Jersey county college serving their county of residence.

Subchapter 11 sets forth the policies and procedures for the New Jersey Student Tuition Assistance Reward Scholarship II (NJ STARS II). This program recognizes the academic achievements of New Jersey county college graduates who wish to continue their education by providing scholarships for full-time attendance at eligible New Jersey colleges and universities. A student is eligible for a scholarship under the NJ STARS II Program if he or she graduates from a New Jersey county college as an NJ STARS scholar with an associate degree and enrolls full-time in a baccalaureate degree program at a New Jersey four-year public institution of higher education in the student's academic year of study immediately following attainment of an associate degree.

As the Authority has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

The rules proposed for re adoption with amendments govern the administration of the State's grant and scholarship programs. They establish criteria for student eligibility, set forth the academic standards for qualification, and specify the determination of award amounts, as well as renewal eligibility and payment. The rules proposed for re adoption with amendments include changes that implement new statutes, and provide clarification in key aspects of program eligibility, application, and payment. The rules proposed for re adoption with amendments impact students by providing the eligibility criteria and information on how to apply for the grants and scholarships they need to make higher education affordable. The rules proposed for re adoptions with amendments also assist schools by providing the framework on how to administer the grant

and scholarship programs on their campuses. The proposed amendments impact students and schools by updating the administration of the programs and providing clarification on sections they have questioned in the past. The Authority expects that these changes will have a positive impact on both students and schools.

#### **Economic Impact**

The rules proposed for re adoption with amendments do not represent any new costs for the State.

In fiscal year 2021, the Tuition Aid Grant Program, which is the primary State grant program in New Jersey, provided over \$433.5 million in need-based awards to approximately 71,567 full-time New Jersey undergraduate students. During the 2020-2021 academic year, full-time Tuition Aid Grant awards, which are based on financial need and tuition charges at New Jersey colleges and universities, ranged in value from \$2,722 to a maximum of \$12,762 for a full-year award. Funding is derived from State appropriations.

The Garden State Scholarship Program provides merit awards that range in value from \$500.00 to \$1,000 annually to academically qualified New Jersey residents. This program is currently not funded.

The Survivor Tuition Benefits Program is open to qualified New Jersey residents who are children or surviving spouses of emergency service personnel and law enforcement officers killed in the line of duty. These grants pay the actual cost of tuition at the New Jersey institution attended, up to the highest tuition charged at a New Jersey public institution of higher education. During fiscal year 2021, five recipients received \$35,996 through this program.

The Miss New Jersey Educational Scholarship Program was previously funded by an annual appropriation to the Higher Education Student Assistance Authority in an amount equal to the cost of tuition at the New Jersey public institution enrolling the annual recipient of the scholarship, as well as renewal recipients. There have been no appropriations for this program since fiscal year 2004.

The New Jersey World Trade Center Scholarship Program was established by the Legislature to aid dependent children and surviving spouses of New Jersey residents who were killed in the terrorist attacks against the United States on September 11, 2001, who died as a result of injuries received in the attacks, or who died as a result of illness contracted due to exposure to the attack site. In 2020-2021, 62 qualifying individuals received scholarships up to \$5,000 per academic year for a total of \$285,000.

The Law Enforcement Officer Memorial Scholarships (LEOMS) Program provides scholarships for full-time undergraduate study at approved New Jersey institutions of higher education to the dependent children of New Jersey law enforcement officers killed in the line of duty. The scholarship pays the balance of a recipient's annual cost of attendance at the institution after deducting any other scholarship, grant, benefit, or other assistance awarded to the recipient under the Higher Education Student Assistance Authority Law, N.J.S.A. 18A:71A-1 et seq. During the 2020-2021 academic year, 12 recipients received funds totaling \$359,413.

The Community College Opportunity Grant (CCOG) Program provides financial aid grants to eligible county college students to cover the costs of tuition and approved educational fees that are not already covered by any other State, Federal, and institutional need-based grants or merit scholarships. During the 2020-2021 academic year, 13,067 students received funding totaling \$27.4 million.

The NJ STARS Program provides scholarships to students who graduate in the top 15 percent of their high school class and who enroll in a full-time course of study at the New Jersey county college serving their county of residence. The NJ STARS Program award pays an amount up to the cost of tuition and fees. During the 2020-2021 academic year 1,811 students received funding totaling more than \$5.8 million.

The NJ STARS II Program provides scholarships to eligible NJ STARS Program graduates who wish to continue their education at a New Jersey four-year institution of higher education. An NJ STARS II Program award is applied to tuition, and in the case of students who receive Tuition Aid Grants, towards tuition and fees. The amount of the scholarship is up to \$1,250 per semester. During the 2020-2021 academic year, 833 students received funding totaling more than \$1.8 million.

It is anticipated that the proposed amendments will have a positive economic impact on the State. By clarifying who is eligible for State aid, requiring financial information from parents of dependents, and streamlining verification procedures, the proposed amendments will ensure that State resources are accurately directed to eligible students.

**Federal Standards Statement**

A Federal standards analysis is not required since the rules proposed for readoption with amendments are not subject to any Federal requirements or standards.

**Jobs Impact**

The rules proposed for readoption with amendments will not result in the loss or generation of jobs. The rules proposed for readoption with amendments maintain previously established criteria for the administration of the State’s grant and scholarship programs, and the proposed amendments provide further clarity to the existing rules. These programs provide financial assistance opportunities to students and their families to help them meet their higher education expenses, which are a major concern for many New Jersey residents. It is anticipated that they will also increase students’ access to higher paying jobs.

**Agriculture Industry Impact**

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

**Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The Authority does not anticipate that any educational institution participating in these programs would be covered by the definition of a small business because these entities have over 100 full-time employees. Additionally, students participating in these programs are not covered by the definition because they are individuals, not businesses.

**Housing Affordability Impact**

The rules proposed for readoption with amendments will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in the average costs associated with housing. The rules proposed for readoption with amendments affect the administration of grants and scholarships for higher education, which has no impact on the cost of housing.

**Smart Growth Development Impact**

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. The rules proposed for readoption with amendments affect the administration of grants and scholarships for higher education, which has no impact on housing production.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Authority has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 9A:9.

**Full text** of the proposed amendments follow (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. ADMINISTRATION FOR STATE GRANTS AND SCHOLARSHIPS

9A:9-1.2 Creation of Student Advisory Committee

The Higher Education Student Assistance Authority shall create a Student Advisory Committee whose purpose shall be to advise the

Authority on the effect of Authority policy and regulations; suggest alternative policy and rules to the Authority; and provide a means of communication between the Authority and students. The Authority shall initially appoint a nine member Student Advisory Committee from nominations provided by the students and student associations of each college in New Jersey. The Committee members shall be New Jersey residents, as defined [in] at N.J.A.C. 9A:9-2.2, and United States citizens, unless affirmative evidence has been submitted for exception in accordance with N.J.A.C. 9A:9-2.3. The nine members, all of whom shall be full-time **undergraduate** students, shall consist of [two] **at least one, but no more than three**, students from **each of the following sectors: the independent colleges, [two students from] Rutgers, The State University, [two students from] the State colleges, [one student from the New Jersey Institute of Technology] the public research universities,** and [two students from] the county colleges. Students representing each sector shall be chosen such that in any given year one of the representatives shall complete his or her degree requirements within one academic year from the time of his or her selection and one shall be of lower class rank. Members of the Student Advisory Committee shall serve one-year terms and their appointments may be renewed according to the initial appointment process. The Student Advisory Committee shall elect a Chairperson and Vice Chairperson from among its members, each of whom shall be from different collegiate institutional sectors. The Chairperson and Vice Chairperson shall serve as voting members on the Higher Education Student Assistance Authority board. In the event of a vacancy on the Student Advisory Committee, the Authority may fill the vacancy in the same manner as the original appointment.

SUBCHAPTER 2. GENERAL PROVISIONS FOR TUITION AID GRANT AND GARDEN STATE SCHOLARSHIP PROGRAMS

9A:9-2.1 Undergraduate enrollment and eligible institutions

(a) Students must have received a high school diploma or recognized equivalent of a high school diploma as defined by 34 CFR 600.2 and be enrolled or plan to be enrolled as full-time undergraduate students matriculated in a curriculum leading to a degree or certificate in an eligible institution as defined [in] at (b) [through], (c), **and** (d) below in order to be eligible for student assistance, unless the specific student assistance program permits part-time enrollment. Students possessing an [undergraduate] **Associate** degree [(either a Baccalaureate or Associate degree)] are not eligible for student assistance at that degree level. **Students possessing a Baccalaureate degree are not eligible for student assistance at the Associate or Baccalaureate level.** Certification of full-time status is the responsibility of the enrolling institution based on the current institutional definition of full-time status and subject to review and approval by the Higher Education Student Assistance Authority (Authority).

(b) An eligible institution means an institution of higher education that:

- 1.-3. (No change.)
- 4. Is accredited or preaccredited by a nationally recognized accrediting association; [and]
- 5. Upon commencing participation in the State financial aid programs:
  - i. Annually provides the Authority with detailed information on the graduation rates of State Tuition Aid Grant recipients and, in the case of county colleges, provides information on the transfer rates of State Tuition Aid Grant recipients, in the format provided by the Authority[.]; **and**
  - ii. **Beginning with academic year 2022-2023, provides a financial aid shopping sheet, as prescribed at N.J.S.A. 18A:3B-6b, to each prospective and returning student as part of the financial aid offer to provide students and their families with clear information on the net costs of attendance after application of grants and scholarships, loan options, and estimated debt that the student will incur to attend the institution; and**

- 6. **Does not require the student to:**
  - i. **Submit to an agreement to arbitrate or to an arbitration proceeding to resolve any matter thereafter relating to the student’s enrollment prior to the commencement of any legal action;**
  - ii. **Resolve a complaint relating to the student’s enrollment through an internal dispute process;**

iii. Waive any right, forum, or procedure afforded to the student, including any right to file and pursue a civil action, class action, or a complaint with, or otherwise notify, any State agency, other public prosecutor, law enforcement agency, or any court or other governmental entity of any alleged violation of the student's rights; or

iv. Be prohibited from disclosing, discussing, describing, or commenting upon the terms of the student's enrollment agreement, or any violation of the student's enrollment agreement.

(c)-(d) (No change.)

#### 9A:9-2.2 Residency

(a) Students must be legal residents of New Jersey for a period of not less than 12 consecutive months immediately prior to the academic period for which aid is being requested. The residence of a student is defined in terms of domicile. Domicile is defined as the place where a person has his or her true, fixed, permanent home and principal establishment, and to which, whenever he or she is absent, he or she has the intention of returning.

1. A dependent student, as defined [in] at N.J.A.C. 9A:9-2.6, shall be [presumed to be a legal resident of the state in which he or she and his or her parent(s) is domiciled. A dependent student whose parent(s) has not established a domicile in New Jersey shall be presumed to be in the State for the temporary purpose of obtaining an education and shall be ineligible for State student financial aid. A student may rebut both of these presumptions by submitting evidence to the Authority establishing that he or she is a legal resident of New Jersey notwithstanding the residency of his or her parent(s). Any dependent student who continues to reside in this State and who has previously received at least one semester of payment of a State grant or scholarship shall continue to be eligible for State student financial aid during the course of each academic year at an eligible institution of higher education in New Jersey, despite his or her parent(s)' subsequent change of domicile to another state.] **considered domiciled in this State for the purposes of determining eligibility for a State student grant or scholarship if the student meets the following criteria:**

i. **The student is a United States citizen or an eligible noncitizen, as determined at 20 U.S.C. § 1091;**

ii. **The student and the student's parent(s) have resided in the State for a period of not less than 12 consecutive months immediately prior to the academic period for which State student assistance is being requested; and**

iii. **The student's parent(s) or guardian provides the Higher Education Student Assistance Authority, upon request, with documentation to verify income and assets.**

2. (No change.)

(b)-(g) (No change.)

#### 9A:9-2.4 Eligibility and repayments

(a) In order to receive a need-based award, students must have demonstrated financial need through submission of a financial aid form approved by the Higher Education Student Assistance Authority in accordance with annually established deadline dates.

**1. Parents of students who meet the definition of "dependent" at N.J.A.C. 9A:9-2.6, shall provide the information necessary to complete the student's financial aid application, including documentation requested for verification in accordance with annually established deadline dates. Parents who knowingly and willfully refuse to provide the required information will be subject to a civil penalty of not more than \$500.00, to be collected in proceedings in accordance with the Penalty Enforcement Law of 1999, P.L. 1999, c. 274 (N.J.S.A. 2A:58-10 et seq.).**

(b)-(d) (No change.)

#### 9A:9-2.6 Dependent/independent student defined

(a) The term independent, when used with respect to a student, is defined annually by the United States Department of Education in the Federal Student Aid Handbook published at [<http://ifap.ed.gov/ifap/byAwardYear.jsp?type=fsahandbook>] <https://fsapartners.ed.gov/knowledge-center/fsa-handbook/pdf/2021-2022>. The definition is set forth in Chapter 2 of the Application and Verification Guide, contained in the

[2013-2014] **2021-2022** Federal Student Aid Handbook, which is incorporated herein by reference, as amended and supplemented.

(b) For purposes of State student financial aid programs, an independent student does not include students who are emancipated minors, [or] were emancipated minors upon reaching the age of majority in [his or her] the state in which the student resided at that time, or are either currently, or when they were a minor were, in a guardianship status in which a parent retained legal parental rights or is, or were, obligated to pay child support.

(c) The term independent also includes a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances as provided under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1087vv, and its implementing regulations and rules. For purposes of receiving State financial assistance as an independent student due to unusual circumstances, the following conditions apply:

1. (No change.)

2. Individual determinations of independent student status for State student aid programs shall be made in a manner consistent with the institutional policies regarding the awarding of all need-based financial aid, including Federal and State aid; [and]

**3. Individual determinations of independent student status shall not be made on the basis of any of the following:**

i. **The parent(s) refusing to contribute to the student's education;**

ii. **The parent(s) being unwilling to provide information on the financial aid application or for verification;**

iii. **The parent(s) not claiming the student as a dependent for income tax purposes;**

iv. **The student demonstrating self-sufficiency; or**

v. **The student not living with the parent(s); and**

[3.] 4. (No change in text.)

(d)-(e) (No change.)

#### 9A:9-2.7 Verification of family financial data

Students, upon request, must provide the Higher Education Student Assistance Authority with documentation including, but not limited to, Internal Revenue Service tax return transcripts and/or State income tax returns for themselves, and in the case of dependent students, for their parents, for verification purposes. In the limited circumstances when students or parents are unable to obtain transcripts from the Internal Revenue Service, the Authority may accept a signed copy of the Federal income tax return. If no tax returns were filed for the year requested, students must provide the Authority with documented proof, received through a Federal or State agency, of taxable and/or untaxed income, including, but not limited to, an IRS tax and wage transcript, receipt of unemployment payments, child support, alimony, welfare payments, Social Security benefits, or at least [two] **one** benefit[s] from any of the following Federal **or** State programs: [Medicaid,] SSI, SNAP, TANF, **WorkFirst NJ, General Assistance, cash assistance, housing and rental assistance subsidies, or WIC.** Financial data provided on the financial aid form may be verified by the Authority and/or institution through the comparison of information reported on income tax transcripts and returns and other requested documentation. Discrepancies will require the re-evaluation of the student's eligibility. Students, as well as institutions, will be notified if an adjustment in the value of aid is required. If documentation is not received to verify income or resolve discrepancies, aid will not be granted.

(a)

## HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

### Student Loan and College Savings Programs STEM Loan Redemption Program

#### Proposed New Rules: N.J.A.C. 9A:10-5

Authorized By: Higher Education Student Assistance Authority,  
Christy Van Horn, Chairperson.