

anthropogenic reasons. (See N.J.S.A. 13:1B-15.154.) The rules contain procedures, standards, and criteria for developing and adopting a list of endangered plant species native to the State, and also contain the official Endangered Plant Species List at N.J.A.C. 7:5C-5.1 (List), which currently includes 356 native New Jersey plant species.

The Department intends to solicit stakeholder input on the existing rules. Subsequent to the completion of this process, the Department anticipates initiating a rulemaking to propose amendments to update the List based primarily on the Department's Biotics database, which contains current information on the location and status of occurrences of over 800 native plant species that have 50 or fewer occurrences Statewide. The readoption without amendment will provide the Department with time to complete its analysis of appropriate amendments to the current rules, draft proposed new rules, and seek public input on the proposed new rules.

HIGHER EDUCATION

(a)

HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

Grant and Scholarship Programs

Adopted Repeal and New Rule: N.J.A.C. 9A:9-2.13

Adopted Amendments: N.J.A.C. 9A:9-2.1 through 2.5, 2.7, 2.10, 2.11, 10.1, 10.2, 10.4, 11.1, 11.2, 11.5, and 11.7

Proposed: September 16, 2019, at 51 N.J.R. 1451(a).

Adopted: January 22, 2020, by the Higher Education Student Assistance Authority, Christy Van Horn, Chairperson.

Filed: February 3, 2020, as R.2020 d.025, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 18A:71A-1 et seq., 18A:71B-1 et seq., 18A:71B-12, 18A:71B-19, 18A:71B-20, 18A:71B-23.7, 18A:71B-86, and 18A:71B-86.6; and P.L. 2017, c. 360, P.L. 2018, c. 12, and P.L. 2018, c. 144.

Effective Date: March 2, 2020.

Expiration Date: November 6, 2021.

Summary of Public Comments and Agency Responses:

The comment period officially ended on November 15, 2019. The Higher Education Student Assistance Authority ("HESAA" or "Authority") received comments from the Executive Council of the New Jersey Association of Financial Aid Administrators (NJASFAA); Rabbi Aaron Kotler, President of Beth Medrash Govoha; and James Anderson, Director of Financial Aid at Montclair State University. The comments, along with the Higher Education Student Assistance Authority's responses, are summarized below.

COMMENT: The NJASFAA Executive Council requests that the Authority amend N.J.A.C. 9A:2-1(b)5ii to read (addition in bold) "Beginning with academic year 2020-2021, provides a financial aid shopping sheet, **which complies with the New Jersey-specific Shopping Sheet, per P.L.2019, c.201, or the current model shopping sheet (now called a College Financing Plan) published by the U.S. Department of Education**, to each prospective 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." The commenters believe that their suggested alternative language better comports to P.L. 2019 c. 201 in that the statute only requires the institutions to provide the shopping sheet to prospective students. In addition, the commenters stated that they are required to provide the College Financing Plan to veterans and that the College Financing Plan no longer requires some of the data that the State may require. The commenters are concerned that the format prescribed by the Authority may require the institutions to complete onerous research.

RESPONSE: The Authority has determined that it will not adopt proposed new N.J.A.C. 9A:2-1(b)5ii. As, pursuant to N.J.A.C. 1:30-6.3, this change is not permitted to be made upon adoption, the amendment will be repropounded in a future issue of the New Jersey Register; the technical changes proposed at N.J.A.C. 9A:2-1(b)5i will also be undone upon adoption.

COMMENT: The NJASFAA Executive Council requests an update to the reference to the Federal Student Handbook at N.J.A.C. 9A:9-2.3(a) from 2013-2014 to the current handbook.

RESPONSE: As the current reference at N.J.A.C. 9A:2.3(a) is to the Federal Student Aid Handbook, "as amended and supplemented," the rule always incorporates the current version of the Federal Student Aid Handbook. However, in response to the commenter, HESAA will update N.J.A.C. 9A:9-2.3(a) to cite the current year's Federal Student Aid Handbook.

COMMENT: The NJASFAA Executive Council expressed concerns with proposed new N.J.A.C. 9A:9-2.4(d)2, in that the Council believes it will be too onerous and costly for students to provide proof of mailing of their Selective Service registrations. The commenters request that schools be permitted to accept a copy of the registration as proof of the students' submission for registration with the Selective Service.

RESPONSE: A photocopy of the registration form only proves that the student filled out the registration form; it does not prove that the student submitted the registration form. Pursuant to N.J.S.A. 18A:71B-6, students who are subject to the provisions of the Military Selective Service Act are not eligible for State student financial aid unless they register for Selective Service. To ensure compliance with this requirement, N.J.A.C. 9A:9-2.4(d)2 provides three options for students to prove they have registered: filing the Free Application for Federal Student Aid, providing a copy of the Selective Service Registration Card, or providing proof that the student mailed the registration form to the Selective Service System, if the student is in his first semester. To ease some of the time burdens for students, the Authority specifically included the option for first semester students to provide proof that they mailed the registration form to the Selective Service System because it can take up to 90 days to receive the Selective Service Registration card. In addition, the cost of providing proof is not overly expensive. Pursuant to the U.S. Postal Services website, www.usps.com, a certificate of mailing, Form 3817, currently costs \$1.45.

COMMENT: The NJASFAA Executive Council, Rabbi Aaron Kotler, and James Anderson all expressed concerns with the amendments to N.J.A.C. 9A:9-2.7. Rabbi Kotler requests that HESAA reconsider the requirement to produce income proof received through a Federal or State agency because he believes it creates a barrier to access for low-income students who were not required to file a tax return in the base year. He also suggested that the Authority accept a projected year tax return that was filed with the IRS.

Similarly, the NJASFAA Executive Council states that it is not a realistic expectation for students who are homeless, at risk of homelessness, veterans, or undocumented to be able to provide documentable proof, received through a Federal or State agency, of taxable and/or untaxed income. This commenter requested that HESAA assess these students with in-kind support amounts that assume a minimal standard of living.

Mr. Anderson requested that the Authority assess in-kind support for independent students. He stated that he understood "there was a concern that some students who become independent based on age were receiving TAG even though they still had the support of parents of significant means, and that this was a misallocation of limited resources that are intended to support needy students." Mr. Anderson agrees with the objectives of the policy but is concerned with the "unintended consequences of denying TAG to high needs students simply because they have become independent based solely on age." He recommends that HESAA include in its procedures a review of students who are receiving a Tuition Assistance Grant (TAG) as dependent students who transition into independent status to ensure that students do not lose eligibility based solely on age.

RESPONSE: As Mr. Anderson stated, the reason behind the requirements of N.J.A.C. 9A:9-2.7 is to ensure that there is not a misallocation of the limited State resources that are intended to support

needy students. Pursuant to N.J.S.A. 18A:71B-21.a, the Authority has the responsibility of ensuring that need-based financial aid is directed to students who have verifiable need. To maintain the integrity of the programs the Authority administers, HESAA can only verify need through reputable sources, such as State and Federal agencies. If the Authority were not to seek verification when students report zero income, but instead were to impute in-kind support, it would open the door to undetectable levels of erroneously awarded State financial aid to students who failed to properly report their true income.

Additionally, the Authority does not accept projected year tax returns in order to align with the information provided on the Free Application for Federal Student Aid (FAFSA), which relies on prior-year tax information. When there are changes to a student's financial situation due to circumstances that are out of that student's control, such as unemployment, the student is still able to report that change to the school, which will evaluate the student's eligibility for a change of circumstances for State financial aid and submit that change to the Authority.

COMMENT: Rabbi Kotler and Mr. Anderson both requested that students who cannot provide documentation of earned income, and also cannot provide verifiable documentation of their receipt of unemployment insurance, child support, alimony, food assistance benefits, health insurance benefits, public need-based cash assistance benefits, or Social Security benefits be permitted to provide proof of one source of benefits from a Federal or State program instead of the two sources required by the rule.

RESPONSE: The basic life expenses are food, shelter, and healthcare. For students certifying they had zero income, the Authority requires students to provide proof of two sources of benefits that provide for these basic life expenses in order to verify how they met these living costs. The Authority must have an accurate view of a student's economic circumstances to ensure the State's limited resources are directed to the intended recipients.

COMMENT: With regards to students and parents proving they have two documentable sources of income, Mr. Anderson requested that HESAA permit appeals in cases where dependent students claim to be financially supporting their parents, and allow students, in such cases, to provide, as an alternative documentation, that the students are providing such support to their parents. He states that current policy does not acknowledge such situations.

RESPONSE: Pursuant to N.J.A.C. 9A:9-2.15 students are permitted to appeal the determination of whether or not they are eligible for State financial aid. The appeal process requires students to describe in writing the basis for the appeal. While the Authority acknowledges that there could be situations where dependent students support their parents, N.J.A.C. 9A:9-2.7, as amended, requires families to provide the Authority with documented proof, received from a Federal or State agency, of taxable and/or untaxed income to ensure families are not misrepresenting the family's income and that they are not having students declared independent simply to receive additional financial aid. If HESAA cannot verify that a dependent student is financially supporting his or her parent, HESAA cannot award need-based aid.

Federal Standards Statement

A Federal standards analysis is not required since the adopted amendments and new rule are not intended to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Full text of the adopted new rule and amendments follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

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 (b) through (d) below in order to be eligible for student assistance, unless the specific student assistance program permits part-time enrollment. Students possessing an undergraduate degree (either a Baccalaureate or Associate degree) are not eligible for student assistance at that degree 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.-4. (No change.)

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 2020-2021, provides a financial aid shopping sheet, in the format prescribed by the Authority, 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.]

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

9A:9-2.2 Residency

(a)-(d) (No change.)

(e) Notwithstanding the provisions of (a) and (b) above, a student is eligible for aid if the student:

1. Attended high school in New Jersey for at least three years;

2. Graduated from a high school in New Jersey or received the equivalent of a high school diploma in New Jersey;

3. Is not attending an institution in New Jersey solely for the purpose of receiving State student financial aid; and

4. In the case of a person without lawful immigration status, files an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status or will file an application as soon as he or she is eligible to do so.

(f) Students who meet the requirements of (e) above, shall be referred to as New Jersey Dreamers, for purposes of State student financial assistance.

(g) (No change in text.)

9A:9-2.3 Noncitizens and resident aliens

(a) In order to receive a grant or scholarship, a noncitizen of the United States of America or resident alien must present affirmative evidence that he or she is not in the United States for the temporary purpose of obtaining an education. Acceptable affirmative evidence is delineated 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>. The acceptable affirmative evidence standards set forth in Volume 1, Chapter 2, Citizenship, of the *[2013-2014]* *2019-2020* Federal Student Aid Handbook, which is incorporated herein by reference, as amended and supplemented. For a noncitizen of the United States of America, or resident alien, legal New Jersey residency for purposes of N.J.A.C. 9A:9-2.2 commences when a student is granted permanent resident status in the United States.

(b) In order to receive a grant or scholarship, a student other than a nonimmigrant alien within the meaning of section 101(a)(15) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15) shall:

1. Have attended a New Jersey high school for at least three years;

2. Have graduated from a New Jersey high school or received the equivalent of a high school diploma from New Jersey; and

3. In the case of a person without lawful immigration status, filed an affidavit with the institution of higher education stating either that the student has filed an application to legalize his or her immigration status, or that the student will file an application to legalize his or her immigration status as soon as he or she is eligible to do so.

9A:9-2.4 Eligibility and repayments

(a)-(c) (No change.)

(d) Students subject to the provisions of the Military Selective Service Act, 50 U.S.C. §§ 3801 et seq., shall not receive State financial assistance

ADOPTIONS

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under the programs administered by the Authority without verification of compliance with the requirements of the Military Selective Service Act. Verification of compliance shall be satisfied as follows:

1. For students who apply using a Federally supplied application for financial aid, verification of military selective service compliance provided under the Federal Higher Education Act of 1965, 20 U.S.C. § 1001 et seq., satisfies this requirement;

2. For students who apply using a non-Federally supplied application for financial aid, the institution of higher education shall not disburse the aid until provided a copy of the student’s Selective Service Registration Card or a letter from the Federal government confirming registration with Selective Service. For students in their first semester of enrollment only, institutions are permitted to accept proof that the student mailed his registration to the Selective Service System, including, but not limited to, a registered mail receipt or a commercial carrier tracking notice. For future semesters of eligibility, the student must provide a copy of the Selective Service Registration Card or letter from the Federal government confirming registration with Selective Service.

9A:9-2.5 Student notification

The Higher Education Student Assistance Authority shall notify students of grant eligibility in writing, either electronically or by mail. The amount of the grant is subject to change based on the annual level of appropriations and other resources available to the student (see N.J.A.C. 9A:9-2.9). The institution’s written notification to the student regarding State financial assistance shall contain a clause indicating the State is not responsible for funding of the grant in the event of fraudulent, inaccurate, or misleading information.

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 benefits from any of the following Federal programs: Medicaid, SSI, SNAP, TANF, 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.

9A:9-2.10 Verification of enrollment and academic performance

(a) Before payment may be made to an eligible student, the institution shall have satisfactory evidence that the student is eligible for State grant and/or scholarship assistance, has registered as a full-time student for an academic term in an eligible program of study, or a minimum of six credits if the student is applying for an approved part-time financial aid program in an eligible program of study, and that the student is meeting minimum standards for academic performance and academic progress.

(b)-(f) (No change.)

9A:9-2.11 Payments

(a) The maximum number of semester award payments that students may receive are as follows:

1. Tuition Aid Grant Program:

<u>Type of Program</u>	<u>2-Year College Maximum Semesters</u>	<u>4-Year College Maximum Semesters¹</u>
Regular program	5	9

<u>Type of Program</u>	<u>2-Year College Maximum Semesters</u>	<u>4-Year College Maximum Semesters¹</u>
Remedial/Developmental or Bilingual (ESL) Curriculum ²	6	10
EOF Program	8	12
Three Plus One Degree Program established pursuant to P.L. 2018, c. 144	6	10
County college transfer	N/A	10
5-year program	N/A	11
5-year county college transfer, Remedial/Developmental or Bilingual curriculum	N/A	12

¹The semesters of payment are cumulative and include all payments made for a two-year program.

² (No change.)

2. Other State Student Assistance Programs, if not separately defined by rule:

<u>Type of Program</u>	<u>2-Year College Maximum Semesters</u>	<u>4-Year College Maximum Semesters¹</u>
Regular program	5	8
Three Plus One Degree Program established pursuant to P.L. 2018, c. 144	6	8
Remedial/Developmental or Bilingual (ESL) Curriculum ²	6	8
5-year program	N/A	10

¹ (No change.)

² Remedial/Developmental or Bilingual (ESL) Curriculum must contain the equivalent of 18 or more credit hours of remedial or bilingual (ESL) courses.

(b) (No change.)

9A:9-2.13 Student’s obligation

Students are required to log onto the New Jersey Financial Aid Management System and ensure that their file is complete and accurate. Any changes to family financial status must be reported to the institution, which shall exercise professional judgment pursuant to N.J.A.C. 9A:9-3.3 to determine if there is a change in the student’s eligibility for State student assistance programs.

SUBCHAPTER 10. NEW JERSEY STUDENT TUITION ASSISTANCE REWARD SCHOLARSHIP (NJ STARS) PROGRAM

9A:9-10.1 Purpose and scope

The rules established by this subchapter provide the policies and the procedures for participation in the New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program administered by the New Jersey Higher Education Student Assistance Authority (Authority). These scholarships shall be awarded annually to eligible students enrolled in a full-time course of study at a New Jersey county college, unless the student receives an exemption from the full-time course of study requirement pursuant to N.J.A.C. 9A:9-10.4(a)6iii.

9A:9-10.2 Definitions

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

... “Full-time enrollment” in any semester, including summer, means a course of study leading to a degree from the county college of enrollment, unless the student is enrolled in a three plus one degree program established pursuant to P.L. 2018, c. 144, in which case the course of study

in the third academic year shall lead to a degree at the four-year institution with which the county college is partnered in the three plus one degree program, that includes at least 12 credit hours, not including any credit hours in a remedial or developmental curriculum. Full-time enrollment for a summer semester consists of the total number of credits taken during all sessions in that summer.

...

“Part-time enrollment” in any semester, including summer, means a course of study leading to a degree from the county college of enrollment, that includes at least six credit hours, but less than 12 credit hours, not including any credit hours in a remedial or developmental curriculum. Part-time enrollment for a summer semester consists of the total number of credits taken during all sessions in that summer.

...

9A:9-10.4 Eligibility requirements

(a) A student shall be eligible for a scholarship under the NJ STARS Program for up to five semesters, including summers, unless the student is enrolled in a three plus one degree program established pursuant to P.L. 2018, c. 144, in which case the student shall be eligible for a scholarship under the NJ STARS Program for up to six semesters, including summers. This period of eligibility also includes any semester for which a student qualifies for the scholarship but does not receive payment pursuant to N.J.A.C. 9A:9-10.7. In order to qualify for this scholarship, a student must meet the following eligibility requirements:

1. (No change.)

2. Upon notice from the Authority of conditional eligibility for the Program, a student shall take a college placement test selected by the New Jersey Council of County Colleges and administered by the county college in the county of the student’s school district at no cost to the student or the school district. The county colleges may enter into an agreement with the school district to administer the test at the high school or other selected site within the district.

i. (No change.)

ii. A student shall have one year from September 1 following high school graduation to demonstrate the skill levels required to pursue courses for credit at a county college. The student shall become an NJ STAR scholar eligible for five, or six if enrolled in a three plus one program, semesters of NJ STARS scholarships if during or at the end of the one-year period the student demonstrates the required ability. A student loses eligibility to become an NJ STARS Scholar if the student continues to require remediation at the end of the one-year period;

3.-5. (No change.)

6. A student must maintain continuous enrollment in a full-time course of study unless:

i. The student is on medical leave due to the illness of the student or illness of a member of the student’s immediate family or emergency leave because of a family emergency, which medical or emergency leave shall have been approved by the county college prior to completion of the semester for which leave is being granted;

ii. The student is called to partial or full mobilization for State or Federal active duty as a member of the National Guard or a Reserve component of the Armed Forces of the United States;

iii. The student receives an exemption from the full-time course of study requirement by enrolling part-time and:

(1) Provides the county college with a written note from a physician or other licensed health care professional indicating the student’s need to take a reduced number of credits due to a physical or mental health condition; or

(2) Provides the county college with documentation to verify the death of the student’s parent or spouse in the current or previous semester. Acceptable documentation includes, but is not limited to, a copy of the obituary listing the student as the child or spouse, or a copy of the death certificate along with a copy of the birth certificate or marriage certificate;

iv. A student enrolled for less than full-time status during the summer semester shall not receive an NJ STARS award for that semester, unless the student receives an exemption from the full-time course of study requirement pursuant to (a)6iii above, but shall maintain eligibility for the program; or

v. (No change in text.)

7. A student shall not receive an NJ STARS scholarship for the sixth semester of county college enrollment, unless the student is enrolled in a three plus one degree program established pursuant to P.L. 2018, c. 144, but if a student enrolled in a nursing or engineering program enrolls for a sixth semester that student shall maintain eligibility for the New Jersey Student Tuition Assistance Reward Scholarship II (NJ STARS II) Program, established pursuant to P.L. 2005, c. 359 (N.J.S.A. 18A:17B-86.1 et seq.), provided the student meets the requirements for receipt of an NJ STARS II scholarship and graduates after the sixth semester.

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

(e) A student enrolled part-time pursuant to (a)6iii above shall receive an additional semester of NJ STARS eligibility for each semester the student receives an exemption from the full-time course of study requirement, not to exceed five additional semesters.

SUBCHAPTER 11. NEW JERSEY STUDENT TUITION ASSISTANCE REWARD SCHOLARSHIP II (NJ STARS II) PROGRAM

9A:9-11.1 Purpose and scope

The rules established by this subchapter provide the policies and procedures for participation in the New Jersey Student Tuition Assistance Reward Scholarship II (NJ STARS II) Program administered by the Higher Education Student Assistance Authority. This program offers scholarships to NJ STARS scholars who attain an associate degree at a New Jersey county college and are enrolled in a full-time course of study at a New Jersey four-year institution of higher education no later than the second eligible term immediately following the student’s attainment of an associate degree, unless the student receives an exemption from the full-time course of study requirement pursuant to N.J.A.C. 9A:9-11.5(a)5iii.

9A:9-11.2 Definitions

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

...

“Fourth academic year of study” means the third and fourth eligible terms of study at a participating institution, unless the student is enrolled in a three plus one degree program established pursuant to P.L. 2018, c. 144, in which case the fourth academic year of study means the first and second eligible terms of study at a participating four-year institution.

...

“Part-time enrollment” in any semester means a course of study in any term, except summer sessions, that includes at least six credit hours, but less than 12 credit hours, in a non-remedial or non-developmental curriculum and which leads to a baccalaureate degree from a participating institution.

...

“Third academic year of study” means the first two eligible terms of study at a participating institution, unless the student is enrolled in a three plus one degree program established pursuant to P.L. 2018, c. 144, in which case the student completed the third academic year of study at the county college.

9A:9-11.5 Eligibility requirements

(a) A student shall be eligible for a scholarship under the NJ STARS II Program for up to four terms, unless the student is enrolled in a three plus one degree program established pursuant to P.L. 2018, c. 144, in which case the student shall be eligible for a scholarship under the NJ STARS II Program for up to three terms. Payments are only made for fall and spring terms. The student’s eligibility will be determined during the first eligible term of enrollment at a participating institution. In order to qualify for this scholarship, a student must:

1. (No change.)

2. Have graduated from a New Jersey county college with an associate degree as a funded or non-funded NJ STARS scholar with at least a 3.25 cumulative grade point average or was eligible for but did not receive an NJ STARS scholarship because the student was enrolled in college courses while in high school and received an associates degree with at least a 3.25 cumulative grade point average in accordance with a joint program offered by the student’s school district and a county college.

LABOR AND WORKFORCE DEVELOPMENT

(a)

**DIVISION OF UNEMPLOYMENT INSURANCE
Claims Adjudication—Misconduct**

Adopted Amendments: N.J.A.C. 12:17-2.1 and 10.1 through 10.8

Proposed: November 4, 2019, at 51 N.J.R. 1595(a).

Adopted: February 5, 2020, by Robert Asaro-Angelo,
Commissioner, Department of Labor and Workforce
Development.

Filed: February 5, 2020, as R.2020 d.031, **without change**.

Authority: N.J.S.A. 43:21-7.g.

Effective Date: March 2, 2020.

Expiration Date: November 2, 2022.

Summary of Hearing Officer’s Recommendation and Agency’s Response:

A public hearing regarding the proposed amendments was held on December 2, 2019, at the Department of Labor and Workforce Development. David Fish, Executive Director, Legal and Regulatory Services, was available to preside at the public hearing and to receive testimony regarding the proposed amendments. No one testified at the public hearing and no written comments were submitted directly to the Office of Legal and Regulatory Services. Therefore, the hearing officer recommended that the Department proceed with the amendments without change.

**Summary of Public Comment and Agency Response:
No comments were received.**

Federal Standards Statement

The adopted amendments do not exceed standards or requirements imposed by Federal law. Specifically, the adopted amendments are not inconsistent with the Federal Unemployment Tax Act, 26 U.S.C. 3301 et seq. Consequently, no Federal standards analysis is required.

Full text of the adoption follows:

SUBCHAPTER 2. DEFINITIONS

12:17-2.1 Definitions

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

...

“Misconduct” means conduct that is improper, intentional, connected with the individual’s work, within the individual’s control, not a good faith error of judgment or discretion, and is either a deliberate refusal, without good cause, to comply with the employer’s lawful and reasonable rules made known to the employee or a deliberate disregard of the standards of behavior the employer has a reasonable right to expect, including reasonable safety standards and reasonable standards for a workplace free of drug and substance abuse.

...

SUBCHAPTER 10. CLAIMS ADJUDICATION—MISCONDUCT CONNECTED WITH THE WORK

12:17-10.1 Disqualification for misconduct connected with the work—general principles

(a) An individual shall be disqualified for benefits for the week in which the individual has been suspended or discharged for misconduct connected with the work, and for the five weeks that immediately follow that week. (See N.J.S.A. 43:21-5(b)).

Recodify existing (c)-(e) as (b)-(d) (No change in text.)

(e) To sustain disqualification under this section, the burden of proof is upon the employer, who shall, prior to a determination by the Department of misconduct, provide written documentation demonstrating that the

i. Students who were not enrolled in a three plus one degree program established pursuant to P.L. 2018, c. 144, and were NJ STARS scholars for their fifth semester of county college enrollment and enrolled in a sixth semester at the county college in a nursing or engineering program are eligible for NJ STARS II, provided they meet the requirements for receipt of an NJ STARS II scholarship and graduate after the sixth semester.

ii. Students who were enrolled in a three plus one degree program established pursuant to P.L. 2018, c. 144 must have been a funded or non-funded NJ STARS scholar in the sixth semester of county college enrollment to be eligible for NJ STARS II;

3. Be enrolled full-time, or part-time if the student received an exemption from the full-time course requirement pursuant to (a)5iii below, in a baccalaureate degree program at a participating institution no later than the second eligible term immediately following the student’s attainment of an associate degree, unless enrollment is delayed due to the illness of the student or a member of the student’s immediate family or because of a family emergency, which medical or emergency exception shall have been approved by the Authority, or unless called to partial or full mobilization for State or Federal active duty as a member of the National Guard or a Reserve component of the Armed Forces of the United States;

4. (No change.)

5. Maintain continuous enrollment in a full-time course of study at a participating institution unless:

i. The student is on medical leave due to the illness of the student or a member of the student’s immediate family or on emergency leave because of a family emergency, which medical or emergency leave shall have been approved by the participating institution prior to completion of the term for which leave is being granted;

ii. The student is called to partial or full mobilization for State or Federal active duty as a member of the National Guard or a Reserve component of the Armed Forces of the United States;

iii. The student receives an exemption from the full-time course of study requirement by enrolling part-time and:

(1) Provides the participating institution with a written note from a physician or other licensed health care professional indicating the student’s need to take a reduced number of credits due to a physical or mental health condition; or

(2) Provides the participating institution with documentation to verify the death of the student’s parent or spouse in the current or previous semester. Acceptable documentation includes, but is not limited to, a copy of the obituary listing the student as the child or spouse, or a copy of the death certificate along with a copy of the birth certificate or marriage certificate.

(b) A student enrolled part-time pursuant to (a)5iii above shall receive an additional semester of NJ STARS II eligibility for each semester the student receives an exemption from the full-time course of student requirement, not to exceed four additional semesters.

(c) (No change in text.)

9A:9-11.7 Amount of the scholarship

(a) A scholarship under the NJ STARS II Program shall be applied toward the cost of tuition, or in the case of a student who receives a Tuition Aid Grant, toward the cost of tuition and approved fees, subject to the prior application of other State and Federal grants and scholarships against such costs for an eligible student enrolled in a full-time course of study at a participating institution. A scholarship shall be paid to the participating institution an amount up to \$1,250 per term. The cost of the scholarship shall be paid 100 percent by the State.

1. A scholarship under the NJ STARS II Program for students enrolled part-time shall be prorated against the full time NJ STARS II awards as follows:

i. An eligible student enrolled for six to eight credits shall receive one-half of the value of the full-time award;

ii. An eligible student enrolled for nine to 11 credits shall receive three-quarters of the value of the full-time award; and

iii. Total NJ STARS II payments shall not exceed \$5,000 for a student.

(b)-(c) (No change.)