

SPECIAL ADOPTION

HIGHER EDUCATION

(a)

HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

Student Loan and College Savings Programs Policy Governing New Jersey Better Educational Savings Trust (NJBEST) Program

Special Adopted and Concurrently Proposed New Rule: N.J.A.C. 9A:10-7.22

Special Adopted and Concurrently Proposed New Rule Authorized:
July 21, 2021, by the Higher Education Student Assistance
Authority, Christy Van Horn, Chairperson
Filed: July 22, 2021, as R.2021 d.089.

Authority: N.J.S.A. 18A:71A-1 et seq., and 18A:71C-35 et seq.; and
P.L. 2021, c. 128.

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

Concurrent Proposal Number: PRN 2021-080.

Effective Date: July 22, 2021.

Expiration Date: July 17, 2022.

Submit written comments by October 15, 2021, to:

Marnie B. Grodman, Esquire
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Higher Education Student Assistance Authority
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Take notice that in accordance with P.L. 2021, c. 128, the New Jersey Higher Education Student Assistance Authority adopted the following new rule for the implementation of the NJBEST Matching Grant Program. The special adopted new rule became effective on July 22, 2021, upon acceptance for filing by the Office of Administrative Law. The specially adopted new rule shall be effective for a period not to exceed 360 days from the date from the date of the filing, that is, until July 17, 2022.

Concurrently, this new rule is being proposed for re-adoption in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The adopted new rule will become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-6.4(f)), if filed on or before the 360-day expiration date from the date of the filing of this special adoption.

The agency special adoption and concurrent proposal follows:

Summary

The Higher Education Student Assistance Authority (Authority) is statutorily responsible for the administration of the State's higher education savings program, the New Jersey Better Educational Savings Trust (NJBEST) Program, and for the promulgation of all rules to that effect, pursuant to N.J.S.A. 18A:71B-35 et seq. NJBEST is administered in accordance with section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529.

Through the NJBEST Program, money saved by parents, grandparents, or others is invested for a designated beneficiary. When the designated beneficiary is ready to attend a postsecondary education institution, the principal and interest earned can be used for costs of attendance. The NJBEST Program offers favorable Federal and State income tax treatment of funds that are withdrawn from an NJBEST account and used to pay for certain education expenses, such as tuition, defined as a "qualified distribution" pursuant to 26 U.S.C. § 529 and N.J.S.A. 54A:6-25(3).

On June 29, 2021, Governor Murphy signed P.L. 2021, c. 128, which was effective immediately. Section 2.a. of this law established a one-time grant of up to \$750.00 in a dollar-for-dollar match of the initial deposit to

an NJBEST account when the account is initially opened by a taxpayer with gross income of \$75,000 or less.

Section 2.b. of P.L. 2021, c. 128 authorizes the Authority to immediately adopt, upon filing with the Office of Administrative Law, rules necessary for the "appropriate administration and implementation of the provisions of this section, including, a minimum length of time for participation in the NJBEST program in order to maintain eligibility for the credit established pursuant to this section, which rules shall be effective for a period not to exceed 360 days from the date of the filing."

The special adopted and concurrent proposed new rule governs the policy, administration, and procedures of the NJBEST Matching Program and are summarized below:

N.J.A.C. 9A:10-7.22(a) establishes the parameters for the matching grant program that the Authority will offer as part of the NJBEST 529 College Savings Plan. As P.L. 2021, c. 128 was effective immediately, upon execution on June 29, 2021, this section establishes that the NJBEST Matching Grant Program is available for accounts opened on or after June 29, 2021. Additionally, pursuant to P.L. 2021, c. 128, the rule establishes that account owners are eligible for a one-time grant of up to \$750.00, in a dollar-for-dollar match of their initial deposit to their NJBEST account. This means that if an account owner's initial deposit is \$500.00, the match will be \$500.00, if the initial deposit is \$750.00, the match will be \$750.00, and if the initial deposit is \$1,000, the match will be \$750.00.

N.J.A.C. 9A:10-7.22(a)1 provides that the matching grant program is available to account owners with adjusted gross income that does not exceed \$75,000.

Section 2.b. of P.L. 2021, c. 128 authorizes the Authority to set a minimum length of time that the account owner must participate in the NJBEST Program in order to maintain eligibility for the credit established pursuant to this section. To discourage contributors from closing the account soon after they have received the matching grant, N.J.A.C. 9A:10-7.22(a)2 requires that the NJBEST 529 College Savings Plan account remains open and maintains up to \$750.00 of the initial contribution, for a minimum of three years following the initial contribution into the contributor's account, or the matching grant funds will be forfeited back to the Authority.

N.J.A.C. 9A:10-7.22(a)3 provides that the NJBEST matching grants are subject to the availability of funds, either through appropriation or through administrative fees, as determined annually by the Authority Board. The rule further specifies that administrative fees cannot be increased to fund the NJBEST matching grants.

As P.L. 2021, c. 128 specifies that this is intended to be a one-time grant, N.J.A.C. 9A:10-7.22(b) limits the matching grants to no more than one account per beneficiary.

N.J.A.C. 9A:10-7.22(c) establishes the procedures to apply for the matching grant. In order to determine that the account owner's adjusted gross income does not exceed \$75,000, the subsection requires applicants to submit their Internal Revenue Service tax return transcripts for the year prior to the application year. Further, the subsection provides alternative documentation that applicants who are not required to file tax returns can submit. To ensure that the matching grants can be deposited into participants' accounts as early as possible to earn the maximum return, the subsection requires account holders to apply for the grant within one year of making their initial deposit.

N.J.A.C. 9A:10-7.22(c)1 sets forth the procedure for selecting participants if applications exceed available funds. To ensure that the matching grants can be deposited into participants' accounts as early as possible to earn the maximum return, in the event there are insufficient funds available to match the contributions of all applicants, the Authority will select participants for the matching grant program by the order of when the application was received.

N.J.A.C. 9A:10-7.22(d) establishes the procedure the Authority will follow for disbursing the matching grants. In order to ensure that the account holders maintain their NJBEST accounts for three years, while also ensuring that account owners receive any interest earned on the matching grants over those three years, the Investment Manager will

deposit the matching grant into an escrow account. If the account owner maintains their account for three years, then the matching grant balance and any earned interest will be transferred from the escrow account to the account holder's account.

To ensure New Jersey government resources are being spent on New Jersey residents, N.J.A.C. 9A:10-7.22(e) requires account owners to be New Jersey residents in order to be eligible for the matching grant.

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 special adopted and concurrent proposed new rule will have a positive effect on families by providing an additional incentive to save for post-secondary education and encourage long-term savings.

Economic Impact

The special adopted and concurrent proposed new rule will have a positive economic impact on the families that open an NJBEST account and receive the matching grant of up to \$750.00, as they will double their initial deposit, and will earn interest on a larger principal investment. These savings will positively impact the families by reducing the amount the beneficiary's family will have to borrow to earn a degree or credential. The cost to the State will be \$10 million as section 7. of P.L. 2021, c. 128 included a \$10 million appropriation for the NJBEST matching program. Additional matching grants will be financed through excess NJBEST administrative fees only if the Authority's Board determines that sufficient funds are available from NJBEST's administrative fee revenue without increasing fees.

Federal Standards Statement

A Federal standards analysis is not required because the special adopted and concurrent proposed new rule is not intended to exceed the statutory requirements for a state college savings program to receive favorable Federal tax treatment under section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529, and are consistent with administrative guidance from the Internal Revenue Service.

Jobs Impact

The special adopted and concurrent proposed new rule provides incentives for saving for postsecondary education expenses, which promotes economic development by encouraging more individuals to attain the industry-recognized postsecondary degrees and credentials needed for many high-quality employment opportunities. The special adopted and concurrent proposed new rule will not result in the loss or generation of jobs, but does offer an additional incentive to save for postsecondary education, thereby adding to the skilled workforce to meet employer needs.

Agriculture Industry Impact

The special adopted and concurrent proposed new rule will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the special adopted and concurrent proposed new rule does 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 participants in this program are individuals, not businesses.

Housing Affordability Impact Analysis

The special adopted and concurrent proposed new rule will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood that the special adopted and concurrent proposed new rule would evoke a change in the average costs associated with housing because the special adopted and concurrent proposed new rule concerns higher education savings plans, which have no impact on housing.

Smart Growth Development Impact Analysis

The special adopted and concurrent proposed new rule will have an insignificant impact on smart growth and there is an extreme unlikelihood that the special adopted and concurrent proposed new rule 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 special adopted and concurrent proposed new rule concerns higher education savings plans, which have no impact on housing.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The special adopted and concurrent proposed new rule 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 special adopted and concurrently proposed new rule follows:

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

9A:10-7.22 Eligibility for NJBEST Matching Grant Program

(a) For accounts opened on or after June 29, 2021, the Authority will provide a one-time grant of up to \$750.00 in a dollar-for-dollar match of an account owner's initial deposit into an NJBEST 529 College Savings Plan account provided:

1. The account owner's household adjusted gross income does not exceed \$75,000;

2. The NJBEST 529 College Savings Plan account remains open and maintains up to \$750.00 of the initial contribution for a minimum of three years following initial contribution into the contributor's account, or the matching grant funds will be forfeited back to the Authority; and

3. Sufficient funds are available to finance the matching grants from direct State appropriations to the Authority or from NJBEST administrative fees, the availability of which shall be determined annually by the Authority Board. The amount of the administrative fees shall not be increased to fund the matching grants.

(b) The Authority will match contributions into no more than one account per beneficiary.

(c) To receive matching grants from the Authority, account owners must apply online on the Authority's website within one year of opening their NJBEST account and must submit their Internal Revenue Service tax return transcripts for the year prior to the application year to verify income. If no tax returns were filed for the year requested, account owners may 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 insurance benefit payments, child support, alimony, welfare payments, Social Security benefits, SSI, or one benefit from any of the following Federal programs: SNAP, TANF, WIC, or housing assistance.

1. In the event there are insufficient funds available to match the contributions of all applicants, the Authority will select participants for the matching grant program by order of when the application was received.

(d) Within 60 days of approving an account owner's application, the Authority will provide the NJBEST Investment Manager with the matching NJBEST Grant. The Investment Manager will deposit those funds into an escrow account. After three years if the account holder meets the requirements at (a)2 above, then the balance of the matching grant and any earned interest will be transferred from the escrow account to the account holder's account.

(e) To be eligible for the matching grant program, the account owner must be a New Jersey resident.