

listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limits as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter shall be subject to the specific provisions of any such section. Fish length shall measure from the tip of the snout to the tip of the tail (total length), except as noted below:

Species	Minimum Size In Inches	Open Season	Possession Limit
...			
Summer Flounder (Fluke)			
All other marine waters	[18] As specified at (c)5ii below	May [22]2—Sept. [19] 27	[3] As specified at (c)5ii below
...			

- 1.-4. (No change.)
- 5. The following provisions are applicable to the recreational harvest of summer flounder.
 - i. (No change.)
 - ii. In all other waters of the State, a person shall not take, or possess, more than three summer flounder during the summer flounder [greater than or equal to], **two of which shall be equal to or larger than 17 inches, but less than 18 inches, total length [during the summer flounder recreational open season], and one of which shall be 18 inches or greater, total length.**
 - iii.-v. (No change.)
- 6. (No change.)
- (d)-(r) (No change.)

HIGHER EDUCATION

(a)

HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

Grant and Scholarship Programs Community College Opportunity Grant Program Readoption with Amendments: N.J.A.C. 9A:9

Proposed: December 6, 2021, at 53 N.J.R. 1974(a).
 Adopted: April 20, 2022, by the Higher Education Student Assistance Authority, Christy Van Horn, Chairperson.
 Filed: May 2, 2022, as R.2022 d.064, **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-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.

Effective Dates: May 2, 2022, Readoption;
 June 6, 2022, Amendments.
 Expiration Date: May 2, 2029.

Summary of Public Comment and Agency Response:
 The comment period officially ended on February 4, 2022. The Higher Education Student Assistance Authority (“HESAA” or “Authority”) received comments from 10 individuals: David R. Smedley, Director of Financial Aid, Essex County College; Chanie Jacobowitz, Vice President, Government Affairs and Compliance, Beth Medrash Gevoha; Joseph Marbach, President, Georgian Court University; Sarah Sternbach, Social Services Division, Lakewood Resource & Referral Center; David Rousseau, Vice President, Independent Colleges & Universities of New Jersey; Laura Winters, Superintendent of Schools, Lakewood Board of Education; Shoshana Devor, Labor & Delivery Nurse, former Tuition Aid

Grant (TAG) recipient; Moshe Selengut, former TAG recipient; Shifra Shenker, RN-BSN; and Shani Siegfried, Georgian Court graduate, former TAG recipient. The comments, along with the Higher Education Student Assistance Authority’s responses, are summarized below.

1. COMMENT: Chanie Jacobowitz, Joseph Marbach, Sarah Sternbach, David Rousseau, Laura Winters, Shoshana Devor, Moshe Selengut, Shifra Shenker, and Shani Siegfried oppose removing Medicaid from the list of acceptable public means-tested benefits that HESAA uses to verify eligibility for need-based State financial aid in cases where students/families have no documented verifiable income. The commenters posit that Medicaid is the one “basic need” support that students are most likely to qualify for and actually be able to access. Further, the commenters explain that many low-income students are income-eligible for Tuition Aid Grants but not able to qualify to receive the acceptable benefits listed in the regulation, as proposed to be amended. The commenters explain that “SSI” is only for disabled people; “WIC” is only for families who are expecting or have young children; there is a years-long waiting list for “HUD”; WorkFirst NJ, General Assistance, and cash assistance have lower income thresholds than TAG; and “SNAP” is not a viable long-term option because other than under the current temporary COVID-19 waiver’s relaxed SNAP eligibility rules, college students are generally not eligible for SNAP, unless they work at least 20 hours per week and meet other onerous requirements.

RESPONSE: The Authority agrees with the commenters that many low-income students who may be income-eligible for TAG may not be eligible for any government sources of aid except for Medicaid. Therefore, the Authority is not adopting the deletion of “Medicaid” from the list of acceptable public means-tested benefits that HESAA uses to verify eligibility for need-based State financial aid in cases where students/families have no documented verifiable income.

2. COMMENT: David R. Smedley suggested that the Authority amend N.J.A.C. 9A:9-2.4(a) to eliminate the term “award” and replace it with “in order to receive any student aid administered by the Authority.” He advised that in 2019, the U.S. Department of Education issued recommendations to discontinue to use of the term “award.” <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2019-04-15/general-subject-recommendations-what-postsecondary-institutions-should-work-avoid-when-issuing-financial-aid-offers>. Further, David R. Smedley notes that policy advocates have urged financial aid professionals to use “clear, transparent terminology as it relates to ‘grants,’ ‘loans,’ and ‘work-study’ and the relationship to tuition billing and crediting to accounts.”

RESPONSE: The Authority appreciates this comment and agrees with the commenter that financial aid information should be communicated to students using clear, transparent terminology. However, the commenter is taking the U.S. Department of Education’s guidance out of context. The cited guidance provides recommendations for institutions when issuing financial aid offers to inform students of all forms of financial aid for which they may be eligible. These financial aid offers include student loans, which are not awards because they must be repaid; work-study, which is not an award because the funding must be earned through the student’s wages at a work-study job; and grants and scholarships, which are awards because they do not have to be repaid. It is clear that the U.S. Department of Education did not intend to discourage the use of the term “award” when referring to grants and/or scholarships because the U.S. Department of Education has continued to use the term “award” when referring to Federal grants. (See for example, <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2021-01-22/2021-2022-federal-pell-grant-payment-and-disbursement-schedules>). As the rules being readopted pertain to grants and scholarships that do not have to be repaid, “award” is the correct term of art.

3. COMMENT: The comment from David R. Smedley further suggests that HESAA revise the section to state that “an applicant must apply for all other forms of Federal, State, and institutional aid by filing the application for Federal student aid.” The commenter states that “Federal should be listed first as a student aid office first assesses eligibility for Federal student aid. The Authority needs to make clear its definition of what constitutes applying for aid as this is not the same as eligibility for aid. This is especially important for the Community College Opportunity Grant Program whereby the requirement of the applicant is to ‘apply for

all other available forms of Federal and State need-based grants and merit scholarships' and that this 'includes the student satisfying all requirements to determine his or her eligibility to receive payments of these State and Federal grants and scholarships within established State deadlines' as the Authority notes in its Q&A on the CCOG program. A student could decline any such Federal or State need-based aid or merit scholarships after applying, and the statute does not contemplate assessing CCOG eligibility based on what the applicant would have been eligible for regarding such declined funds. It has been suggested that this is the definition of such 'free college' programs but, in fact, definitions are based on statute and implementing regulations."

RESPONSE: The Authority believes the commenter is referencing N.J.A.C. 9A:9-9.4(a) because the comment is about the Community College Opportunity Grant (CCOG) Program. The Authority appreciates the commenter's suggestion, but does not agree that these revisions are necessary. The rule unambiguously provides that students must apply for all other available forms of both State and Federal grants and scholarships. As CCOG is a State program, it is appropriate to list "State" before "Federal." The amount of the CCOG award, as it relates to other State and Federal aid is defined at N.J.A.C. 9A:9-9.6(a)1, which provides that the "the full amount of State, Federal, and institutional grants and scholarship aid received by the student for the purpose of paying tuition and approved educational fees shall be applied to the tuition and approved educational fee charges first, to reduce the amount of the CCOG award."

4. COMMENT: David R. Smedley also commented that the Authority could consider whether to address military education benefits to clarify that the terms "Federal" and "State" refer to military education benefits from those respective governmental levels.

RESPONSE: While the Authority appreciates the comment, it believes it is unnecessary to specify one type of grant and scholarship aid, when the intent of the rule is to be all-encompassing.

5. COMMENT: David R. Smedley commented that references to "State deadlines" might be strengthened by including a direction to where such deadlines are disclosures by the Authority.

RESPONSE: The Authority appreciates the commenter's suggestion, but does not agree that this revision is necessary. The State deadlines are widely publicized through emails, the Authority's website, and the New Jersey Financial Aid Management System portal.

6. COMMENT: David R. Smedley requested that the Authority revise "N.J.A.C. 9A:9-4(a)3" [sic] to read, "achieve or maintain minimum level of satisfactory academic progress" rather than "academic success." The commenter stated that "all Federal and State student aid is based on review of satisfactory academic progress." The "term 'academic success' could be misunderstood to mean academic program standards and not satisfactory academic progress requirements, which sometimes are different."

RESPONSE: The Authority disagrees with this recommendation. Unlike other State and Federal student aid programs, students' CCOG eligibility is not solely based on the standard definition of satisfactory academic progress. Section 3(b)(2) of the Act creating the Community College Opportunity Grant Program (P.L. 2021, c. 26, codified at N.J.S.A. 18A:71B-113(b)(2)) specifically provides that eligibility for CCOG may be renewed for a student who "meets the standards for ... satisfactory academic progress ... or, in the semester immediately prior to receiving an award, attains a minimum level of academic success as determined by the authority." This statutory provision establishes "minimum level of academic success" as an alternative measure of CCOG eligibility that can apply to certain students who do not meet the standard measure of "satisfactory academic progress." Therefore, the term "minimum level of academic success" is specifically defined at N.J.A.C. 9A:9-2 to ensure that this alternative eligibility requirement for CCOG is not confused with "satisfactory academic progress."

7. COMMENT: David R. Smedley commented that the programs at N.J.A.C. 9A:9 have different names, some being grants and some being scholarships. He suggest that the Authority "pursue avenues to rationalize programs' names or, perhaps, combining programs to establish better understanding, with the overall understanding all are applied by a school towards approved charges."

RESPONSE: N.J.A.C. 9A:9 administers programs established by statute. The Authority does not have the Authority to rename or combine the programs.

8. COMMENT: David R. Smedley stated that the regulations should be as "'camera ready' as possible so that schools can simply include them verbatim to reiterate the Authority's programs, policies, and procedures."

RESPONSE: The Authority agrees that it is important for participating institutions to share the program policies and procedures with their students and does not believe any revisions are necessary to achieve this goal.

Federal Standards Statement

A Federal standards analysis is not required because the readopted rules with amendments are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 9A:9.

Full text of the adopted amendments follow (addition to proposal indicated in boldface with asterisks ***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 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 at least one, but no more than three, students from each of the following sectors: the independent colleges, Rutgers, The State University, the State colleges, the public research universities, and 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 at (b), (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 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;

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 at N.J.A.C. 9A:9-2.6, shall be 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 <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 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, were emancipated minors upon reaching the age of majority in 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;

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

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 one benefit 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.