

meet continuing education requirements or to comply with law or regulation;

2. Travel by spouses, civil union partners, domestic partners, immediate family members, or other relatives or unrelated persons who are not school employees;

3. Costs for employee attendance for coordinating other attendees' accommodations at the travel event;

4. Lunch or refreshments for training sessions, professional development, and retreats held within the APSSD, including in-service days beyond the limitations at N.J.A.C. 6A:23A-18.6(a)18;

5. Training to maintain a certification that is not required as a condition of employment;

6. Charges for laundry, valet service, or entertainment;

7. Limousine services and chauffeuring costs to or during an event;

8. Alcoholic beverages;

9. Entertainment costs, including, but not limited to, amusement, diversion, and social activities, and any directly associated costs;

10. Gratuities or tips in excess of those permitted by the Federal per diem rates;

11. Hospitality rooms;

12. Souvenirs, memorabilia, promotional items, or gifts;

13. The cost associated with a conference, meeting, or seminar held in countries not contiguous to the United States; and

14. Other travel expenditures that are unnecessary and/or excessive.

6A:23A-18.22 Behavior modification

(a) APSSDs recording expenditures for behavior modification shall adopt a policy that defines the procedures, evidence-based strategies, techniques, and approaches used in the APSSD's behavior modification program.

(b) Behavior modification, provided pursuant to (a) above, shall not include:

1. Cash or checks;

2. The replacement of meals or components of meals on a regular basis outside of special achievements outlined in the policy described in (a) above; or

3. High-dollar value items such as personal electronics.

6A:23A-18.23 Child nutrition

(a) APSSDs may provide meals to students that align to the Dietary Guidelines for Americans, using United States Department of Agriculture's meal patterns reviewed and/or approved by the New Jersey Department of Agriculture. The costs associated with providing meals may be included in the certified actual cost per student if the following requirements are met:

1. Nonprofit APSSDs shall:

i. Ensure the menu is approved by the New Jersey Department of Agriculture;

ii. Apply for and receive funding from the Child Nutrition Program administered by the New Jersey Department of Agriculture;

iii. Charge students for a reduced and/or paid meal; and

iv. Not have total food service costs, net of the reimbursement and/or sales pursuant to (a)iii above, that exceed the maximum daily price schedule for a high school published annually by the New Jersey Department of Agriculture. Excess expenditures are non-allowable costs.

2. For-profit APSSDs shall:

i. Ensure the menu is approved by the New Jersey Department of Agriculture;

ii. Charge students for a reduced and/or paid meal; and

iii. Not have total food service costs, net of the reimbursement and/or sales pursuant to (a)ii above, that exceed the maximum daily price schedule for a high school published annually by the New Jersey Department of Agriculture. Excess expenditures shall be deemed non-allowable costs.

(b) The cost of meals for staff shall not be included in the certified actual cost per student.

HIGHER EDUCATION

(a)

HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

Student Loan and College Savings Programs The New Jersey College Loans to Assist State Students (NJCLASS) Program: Policies and Procedures

Proposed Amendments: N.J.A.C. 9A:10-6.3, 6.12, 6.13, and 6.17

Authorized By: Higher Education Student Assistance Authority,
Anthony Falcone, Chairperson.

Authority: N.J.S.A. 18A:71A-1 et seq., and 18A:71C-21 et seq.

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

Proposal Number: PRN 2017-034.

Submit written comments by May 5, 2017, to:

Marnie B. Grodman, Esquire
Administrative Practice Officer
Higher Education Student Assistance Authority
PO Box 545
Trenton, NJ 08625-0545
E-mail: Regulations@hesaa.org

The agency proposal follows:

Summary

The Higher Education Student Assistance Authority ("Authority" or "HESAA") is statutorily responsible for the administration of the State's supplemental student loan program, the New Jersey College Loans to Assist State Students (NJCLASS), and for the promulgation of all rules to that effect, pursuant to N.J.S.A. 18A:71C-21 et seq.

NJCLASS ensures that loans are available to, or for the benefit of, eligible students who are not eligible for, or have additional financial need beyond Federal student loans.

NJCLASS loans are funded by the sale of bonds that are repaid solely through the repayment of the NJCLASS loans. The interest rate on the NJCLASS loans is a pass through rate of the bond interest rate, associated costs of sale, cost of servicing the loans and other costs determined by the bond sale. In addition to the rules, HESAA is required to administer NJCLASS pursuant to the indentures for the bonds that finance the loans.

The proposed amendments are summarized below:

Guidance issued by the U.S. Department of the Treasury in November 2015, clarified that parent only loans are eligible to be financed by qualified student loan bonds. To ensure that the parent only NJCLASS loan meets all Federal eligibility requirements, it is proposed that the definition of parent borrower in N.J.A.C. 9A:10-6.3 be amended to mirror the Federal definition for parent borrower by replacing "parent(s), spouse, legal guardian, or other relative of a dependent undergraduate or graduate student" with "student's biological or adoptive mother or father or the student's stepparent, if the biological or adoptive parent has remarried at the time of application."

Public Law 2016, c. 71, which was signed into law on December 5, 2016, defines temporary total disability for a student borrower to include student borrowers who continue to receive an equal or greater amount of income from the source of income that was used to meet the minimum income requirements at the time the loan was approved. It is proposed that the definition of temporarily totally disabled in N.J.A.C. 9A:10-6.3 be amended to reflect the statutory change.

Public Law 2016, c. 71, defines total and permanent disability for a student borrower to include student borrowers who continue to receive an equal or greater amount of income from the source of income that was used to meet the minimum income requirements at the time the loan was approved. It is proposed that the definition of totally and

permanently disabled in N.J.A.C. 9A:10-6.3 be amended to reflect the statutory change.

Pursuant to P.L. 2016, c. 71, interest shall no longer accrue during periods of deferment due to the student borrower's temporary total disability. As such, an amendment is proposed to N.J.A.C. 9A:10-6.12(a) to reflect this change.

An amendment to N.J.A.C. 9A:10-6.12(a)6 is proposed pursuant to P.L. 2016, c. 71, to provide that if the student borrower qualifies for the temporary total disability deferment, it will be granted, regardless of whether the other parties to the loan qualify for a deferment.

Pursuant to P.L. 2016, c. 71, it is proposed that N.J.A.C. 9A:10-6.12(b) be amended to add total temporary disability to the list of deferments permitted for NJCLASS Loan Program loans with a 10-year repayment term.

An amendment is proposed to N.J.A.C. 9A:10-6.13(f) to clarify that to be eligible for an NJCLASS Consolidation Loan, cosigners are required to meet both the minimum income and credit requirements, not income or credit requirements.

N.J.A.C. 9A:10-6.13(i) currently defines a specific application/administrative fee for an NJCLASS Consolidation Loan. In order to provide more flexibility to lower fees if market conditions permit, an amendment is proposed to N.J.A.C. 9A:10-6.13(i) to provide that the administrative fee will be prescribed by the bond indentures.

N.J.A.C. 9A:10-6.13(j) provides a specific formula for the interest rate for NJCLASS Consolidation Loans. Market conditions may permit the Authority to offer interest rates for NJCLASS Consolidation Loans that are lower than those currently prescribed by regulation. As such, an amendment to N.J.A.C. 9A:10-6.13(j) is proposed to permit the bond indentures to define the interest rates in order to provide the flexibility to lower rates as the market allows.

As Federal regulations pertaining to the Federal Family Education Loan Program (FFELP) are being deleted, N.J.A.C. 9A:10-6.13(m) is proposed for amendment to delete cross-references to the Federal regulation. The term "economic hardship" is replaced with "financial hardship" to reflect the term of art currently used in these situations and to add a definition of the term.

Further amendments are proposed to N.J.A.C. 9A:10-6.13(m) pursuant to P.L. 2016, c. 71, to provide a deferment in the repayment of NJCLASS Consolidation loans in the event of the total temporary disability of the student borrower.

Proposed amendments to N.J.A.C. 9A:10-6.17 were published in the December 5, 2016 New Jersey Register at 48 N.J.R. 2573(a). In addition to the pending amendments, it is further proposed that N.J.A.C. 9A:10-6.17(c) be amended to reflect the statutory change made by P.L. 2016, c. 71, which defines total and permanent disability for a student borrower to include student borrowers who continue to receive an equal or greater amount of income from the source of income that was used to meet the minimum income requirements at the time the loan was approved.

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 proposed amendments would have a positive social impact on borrowers. The NJCLASS Program serves as this State's supplemental student loan program to help families fund their expected family contribution not met by other sources. While the NJCLASS Program offers one of the lowest fixed rate supplemental loans in the nation, the Authority continuously seeks to maintain and improve service to applicants and borrowers.

The proposed amendments will provide student borrowers who suffer from a temporary total disability, and the other parties to their loans, with relief in making their loan payments.

Economic Impact

The proposed amendments implement changes to the State supplemental student loan program, which makes postsecondary education accessible and affordable to thousands of New Jersey students and families. For the State's NJCLASS Loan Program, more than \$200 million was made available last year alone in affordable NJCLASS loans. The proposed amendments will have a positive economic impact

on student borrowers who suffer from a temporary total disability, and the other parties to their loans, as they will receive a deferment of both principal and interest on their NJCLASS loans, and interest will not accrue during the deferment period. These amendments will add additional costs to the NJCLASS loan program to fund the deferment and lack of interest accrual.

Federal Standards Statement

A Federal standards analysis is not required because the subject matter of this State student loan program is not subject to any Federal requirements or standards, except for the standards for tax-exempt bonds, section 144(b) of the Federal Internal Revenue Code. NJCLASS loans funded by tax-exempt bonds are intended to qualify under the standards of section 144(b) of the Federal Internal Revenue Code, and do not exceed the standards of that section.

Jobs Impact

Because the NJCLASS Program administered by the Authority makes postsecondary education accessible to thousands of New Jersey students and their families, it promotes access to one of the keys to economic development: higher education. Programs so significant to the financing of a college-trained New Jersey workforce can only be expected to add to the job opportunities in this State. It is not anticipated that the proposed amendments will result in the generation or loss of jobs.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments to the NJCLASS Program 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 this program would be covered by the definition of a small business because these entities have over 100 full-time employees. Additionally, NJCLASS loan applicants are not covered by the definition because they are individuals, not businesses.

Housing Affordability Impact Analysis

The proposed amendments will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood that the amendments would evoke a change in the average costs associated with housing because the proposed amendments concern student loans, which have no impact on housing.

Smart Growth Development Impact Analysis

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the amendments 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 proposed amendments concern student loans, which have no impact on housing.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 6. THE NEW JERSEY COLLEGE LOANS TO ASSIST STATE STUDENTS (NJCLASS) PROGRAM: POLICIES AND PROCEDURES

9A:10-6.3 Definitions

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

...
 "Parent borrower" means a [parent(s), spouse, legal guardian, or other relative of a dependent undergraduate or graduate student] **student's biological or adoptive mother or father or the student's stepparent, if the biological or adoptive parent has remarried at the time of application**, who applies for and receives an NJCLASS Loan Program loan.
 ...

“Temporarily totally disabled” means that an individual is unable to work and earn money or attend school during a period needed to recover from injury or illness. **Other than a student borrower, an individual shall not be considered temporarily totally disabled if he or she continues to receive an equal or greater amount of income from the source of income that was used to meet the minimum income requirements at the time the loan was approved.**

“Totally and permanently disabled” means the condition of any individual who is unable to work and earn money or attend school because of an injury or illness that is expected to continue indefinitely or result in death. [An] **Other than a student borrower, an individual is not considered “totally and permanently disabled” if he or she continues to receive an equal or greater amount of income from the source of income that was used to meet the minimum income requirements at the time the loan was approved.**

...

(b) (No change.)

9A:10-6.12 Deferments and forbearance

(a) Under certain conditions, borrowers shall be permitted to defer payments of interest and/or loan principal for specified periods of time. Some deferments may only be granted if both the borrower and co-borrower qualify for the deferment. During periods of authorized deferment, borrowers remain responsible for the payment of the interest accruing on their loan(s), **except for during approved periods of temporary total disability of the eligible student borrower.** The following are available NJCLASS Loan Program deferments and their requirements:

1.-5. (No change.)

6. Temporary total disability.

i. To qualify for this deferment, a borrower shall submit a request in a form prescribed by the Authority, and provide the Authority with a statement from a physician, who is a doctor of medicine or osteopathy and is legally authorized to practice, certifying that the borrower is temporarily totally disabled. **If an eligible student borrower qualifies for this deferment it will be granted regardless of whether the other parties to the loan qualify for a deferment.**

(b) The deferment begins on the date the borrower’s qualifying status is certified to begin and ends on the date the borrower’s qualifying status is certified to end. Maximum allowable time periods for all deferments except full-time and half-time study at an eligible institution, **temporary total disability of an eligible student borrower**, and active duty in the armed forces shall not exceed six months for loans with a 10-year repayment term, 18 months for loans with a 15-year repayment term, 24 months for loans with a 20-year repayment term, 30 months for loans with a 25-year repayment term, and 36 months for loans with a 30-year repayment term for an unemployment deferment, and for each of the remaining deferments, as established by the Authority. Full-time and half-time study deferments are not available within 24 months of the loan maturity date. Deferments for NJCLASS Loan Program loans with a 10-year repayment term are limited to unemployment **and total temporary disability** deferments.

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

9A:10-6.13 Consolidation Loan Program

(a)-(e) (No change.)

(f) An NJCLASS Consolidation [loan] **Loan** borrower and/or co-borrower shall meet minimum income requirements and be determined creditworthy by the Authority in order to be eligible for an NJCLASS Consolidation [loan] **Loan**. Cosigners shall be required to meet the minimum income [or] **and** creditworthy determination by the Authority if the borrower or co-borrower are unable to do so.

1.-2. (No change.)

(g)-(h) (No change.)

(i) NJCLASS Consolidation Loan borrowers and/or co-borrowers [will] **may** be required to pay [a one percent] **an** application/administrative fee **as proscribed by the bond indentures.** This fee will be added to the sum of the outstanding principal and interest balance of each underlying NJCLASS Loan Program loan being consolidated at the time of approval. In addition, borrowers and/or co-borrowers may be

required to pay a servicing fee for the NJCLASS Consolidation Loan if provided for by the promissory note.

(j) The interest rate on the NJCLASS Consolidation Loan will be a fixed rate based upon [the weighted average interest rate of all the underlying NJCLASS Loan Program loans being consolidated plus 25 basis points. The interest rate of the underlying NJCLASS Loan Program loan is calculated using a blending of the applicable initial and step-up interest rates disclosed to the borrower. If the interest rate of the underlying NJCLASS Loan Program loan currently reflects the step-up interest rate, the step-up interest rate will be used solely in the calculation. If a variable rate NJCLASS Loan Program loan or an NJCLASS Loan Program loan with a 10-year repayment term is being included in the NJCLASS Consolidation Loan, the rate used in the weighted average calculation will be the equivalent 15- or 20-year fixed rate interest rate for the immediate repayment of principal and interest in effect at the time of disbursement of the underlying NJCLASS Loan Program loan. Interest on an NJCLASS Consolidation Loan will begin to accrue at the time of the loan disbursement] **a calculation or rate defined in the bond indentures.**

(k)-(l) (No change.)

(m) The Authority may also, at its discretion, grant borrowers periods of **deferments or forbearance** in the repayment of the NJCLASS Consolidation Loan(s). Forbearance will only be granted **if the ability of both the borrower and co-borrower [qualify for the forbearance pursuant to 34 CFR 682.211(a)(3)] to make scheduled payments has been impaired based on the same or differing conditions.** Forbearance may be granted for situations including, but not limited to, [economic] **financial hardship** [(as these terms are defined for the FFEL Program, 34 CFR Part 682)], **which means situations where the overall financial circumstances of the individual seeking relief are such that he or she is unable to maintain a basic standard of living and still make NJCLASS Consolidation Loan debt payments.** During periods of forbearance, the NJCLASS Consolidation Loan will revert to quarterly or monthly payments of interest only. The maximum allowable time period for [economic] **financial hardship** forbearance set forth in N.J.A.C. 9A:10-6.12(d) pertains to NJCLASS Consolidation Loans. **Deferments will be granted in the event of temporary total disability of an eligible student borrower. To qualify for this deferment, the student borrower shall submit a request in a form prescribed by the Authority and provide the Authority with a statement from a physician, who is a doctor of medicine or osteopathy and is legally authorized to practice, certifying that the student borrower is temporarily totally disabled. If an eligible student borrower qualifies for this deferment, it will be granted regardless of whether the other parties to the loan qualify for a deferment.**

(n) (No change.)

9A:10-6.17 Discharge

(a)-(b) (No change.)

(c) If the Authority determines that an individual borrower is totally and permanently disabled, the obligation of the borrower to make any further payments on the loan is discharged. [A] **Other than a student borrower, a borrower is not considered totally and permanently disabled on the basis of a condition that existed at the time he or she applied for the loan, unless the borrower’s condition has substantially deteriorated later, so as to render the borrower totally and permanently disabled.** A borrower is not considered totally and permanently disabled if he or she continues to receive an equal or greater amount of income from the source of income that was used to meet the minimum income requirements at the time the loan was approved. After being notified by the borrower, or the borrower’s representative, that the borrower claims to be totally and permanently disabled, the Authority shall request that the borrower, or the borrower’s representative, submit the discharge application provided by the Authority. The application must contain a certification by a physician, who is a doctor of medicine or osteopathy and legally authorized to practice in a state, that the borrower is totally and permanently disabled as defined in N.J.A.C. 9A:10-6.3.

(d) (No change.)