

## HIGHER EDUCATION

(a)

### HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

#### Student Loan and College Savings Programs

#### Proposed Readoption with Amendments: N.J.A.C. 9A:10

#### Proposed Repeals: N.J.A.C. 9A:10-1.9 and 3

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

Authority: N.J.S.A. 18A:71A-1 et seq., 18A:71B-35 through 46, 18A:71B-96, 18A:71C-1 through 31, 18A:71C-49, and 18A:71C-57; and 20 U.S.C. §§ 1071 et seq.

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

Proposal Number: PRN 2016-079.

Submit written comments by August 5, 2016, to:

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The agency proposal follows:

#### Summary

The Higher Education Student Assistance Authority (Authority) proposes to readopt N.J.A.C. 9A:10 governing student loan and college savings programs. Pursuant to N.J.S.A. 52:14B-5.1, the rules in this chapter are scheduled to expire May 1, 2016. In accordance with N.J.S.A. 52:14B-5.1.c(2), the submission of this notice of proposal to the Office of Administrative Law extends that date 180 days to October 28, 2016.

The Authority has reviewed the rules and determined that they continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules proposed for re-adoption will continue to provide the Authority with the ability to administer the student loan and college savings programs in an efficient and economic manner.

Pursuant to N.J.S.A. 18A:71A-1 et seq., the Authority is statutorily responsible for the administration of the State's student loan and college savings programs and for the promulgation of all rules to that effect. To ensure the continued efficient administration and operation of these programs, the Authority is proposing the re-adoption of these rules with amendments, and the repeal of certain rules no longer applicable to program operations, to provide additional clarity in the eligibility requirements for participation and application, enrollment criteria, and continued payment of awards for students attending participating New Jersey institutions, all of which are summarized below.

Subchapter 1 details the policies and procedures governing the implementation of the Federal Family Education Loan Program (FFELP) administered by the Authority. The FFELP is a collective term for the Stafford Loan Program (both interest subsidized and unsubsidized), the Supplemental Loan for Students or SLS Program, the Parent Loan for Undergraduate Students (PLUS) Program offered to graduate students and eligible parents of dependent undergraduate students and the Consolidation Loan Program. The FFELP was a Federal-State-private sector partnership. Financial institutions made FFELP loans with private capital, State-designated guaranty agencies, such as the Authority, provide first-line insurance (guarantees for the loans), and the Federal government, through the Federal Department of Education, provides subsidies for student borrowers along with backstop reinsurance and general program oversight and regulation. Pursuant to 20 U.S.C. § 1071, originations of new FFELP loans ceased as of June 30, 2010. As such, the rules proposed for re-adoption with amendments are limited to the servicing of existing FFELP loans as no new FFELP loans are being originated.

The rules proposed for re-adoption with amendments frequently refer to the "Common Manual," which is a publication developed and continuously updated by guarantors participating in the FFELP, such as the Authority. The Common Manual, which is a national industry initiative, is a detailed compilation of policies adopted by guarantors and is intended to be consistent with the Federal Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1071 et seq., and its implementing regulations set forth in 34 CFR Parts 600, 668, and 682 and subregulatory Federal guidance.

Multiple terms and definitions are proposed for amendment in N.J.A.C. 9A:10-1.3. As FFEL loans are no longer being originated, the definition of "Blanket Certificate of Loan Guaranty" is proposed for amendment to reflect that agreements for blanket certificate of loan guaranty are already in place and new ones are no longer being offered.

The definition for "cohort default rate" is proposed for amendment to reflect the Federal change from a two-year to a three-year cohort default rate pursuant to 34 CFR 668.200-202 and Subpart N.

The definition for "Commission" or "CHE" is proposed for deletion as those terms are not used in the chapter.

The definition for the "Federal Family Education Loan Program" is proposed for amendment to reflect the cessation of FFELP originations pursuant to 20 U.S.C. § 1071(d) as is the definition for "lender of last resort."

The definition of "Master Promissory Note" is proposed for amendment to correct the cite for the Federal statute, replacing 20 U.S.C. § 1087vv with 20 U.S.C. § 1082(m).

The NCHelp Electronic Standards Committee no longer exists. As such, the term and definition are proposed for deletion from the rule.

The definition for "servicer" is proposed for amendment to complete the cite to the Federal regulation as the subpart was not previously included.

N.J.A.C. 9A:10-1.4(b)1 is proposed for amendment to clarify that the Authority's phone number may not be toll free.

N.J.A.C. 9A:10-1.4(b)2 and 3 are proposed for deletion due to the cessation of FFELP originations pursuant to 20 U.S.C. § 1071(d).

As there are no longer FFELP originations, recodified N.J.A.C. 9A:10-1.4(b)7 is proposed for amendment to reflect that the Authority no longer provides oversight and training, but instead distributes subregulatory guidance, which is now contained in the Common Manual.

N.J.A.C. 9A:10-1.5(a) is proposed for amendment due to the cessation of FFELP originations to reflect that HESAA served as the State-designated lender, and no longer provides new loans.

N.J.A.C. 9A:10-1.6(a), (b), (c), and (d) are proposed for amendment to change references to the origination of the FFELP loan to the past tense due to the cessation of FFELP originations, as is N.J.A.C. 9A:10-1.10(b) and 1.11.

N.J.A.C. 9A:10-1.7(a) is proposed for amendment to state that the Authority will no longer be entering into participation agreements for originating new loans. As the Authority will no longer be acting as lender of last resort to originate FFELP loans, N.J.A.C. 9A:10-1.7(b) is proposed for amendment to delete reference to lender of last resort originations and to change to past tense the requirement that there be a lender of last resort.

N.J.A.C. 9A:10-1.8(a), (b), and (c) relate to the originations of FFELP loans at the schools. As the FFELP originations have ceased, N.J.A.C. 9A:10-1.8(a), (b), and (c) are proposed for deletion.

Recodified N.J.A.C. 9A:10-1.8(a) is proposed for amendment to reflect the correct Federal regulatory cite, 34 CFR 668.14(b)(4).

N.J.A.C. 9A:10-1.9 is proposed for repeal as FFELP loans are no longer being originated.

N.J.A.C. 9A:10-1.14(b) is proposed for amendment to clarify the State departments and divisions with which the Authority participates in information exchanges.

N.J.A.C. 9A:10-1.15 is proposed for amendment to clarify that borrowers are permitted to enter rehabilitation agreements for FFELP loans and upon rehabilitation the benefits that are reinstated include the ability to receive Federal, not FFELP loans. This section is also proposed for amendment to delete references to the Common Manual as the Common Manual no longer provides a more complete explanation of the topic.

34 CFR 682.209(g), authorizing refinancing of FFELP loans was repealed pursuant to 78 Fed. Reg. 65768, 65811 (2013), as such N.J.A.C. 9A:10-1.16(b), is proposed for deletion.

As the Authority is no longer authorized to originate new Federal consolidation loans, recodified N.J.A.C. 9A:10-1.16(b) is proposed for amendment to remove reference to originating new consolidation loans.

N.J.A.C. 9A:10-1.17 is proposed for amendment to remove training from the heading as the section references a full gamut of services provided by the Authority. In addition, this section is amended to remove references to services no longer provided due to the elimination of FFELP originations, such as FFELP-related information, application processing, and loan disbursements.

As FFELP is no longer originating loans, schools are no longer participating in the program and, therefore, are not subject to reviews by the Authority. As such, N.J.A.C. 9A:10-1.18 is proposed for amendment to delete subsection (b) in its entirety, remove all references to schools in subsection (a) and recodified subsections (c), (d), (e), and (f), and replace reference to “student” with reference to “borrower.”

Subchapter 2 incorporates the rules for the administration of the Social Services Student Loan Redemption Program (SSSLRP), which was enacted into law on July 14, 2005 (N.J.S.A. 18A:71B-87 et seq.). This program addresses the critical shortage of direct care professionals in the State by providing redemption incentives for eligible student loan expenses incurred by program participants covering the cost of attendance while enrolled in an approved undergraduate or graduate course of study. In exchange, the program participant contracts with the Authority to engage in full-time employment as a direct care professional at a qualified facility or agency following the participant’s successful completion of the approved course of study. The rules established by this subchapter provide the policies and procedures for participation in SSSLRP.

Subchapter 3 specifies the policies and procedures for participation in the OB/GYN Student Loan Expense Reimbursement Program, which was enacted into law on June 7, 2004 (N.J.S.A. 18A:71C-49). This program was intended to ensure that high-quality health care continued to be available in the State, and that residents continued to have access to highly trained physicians in all specialties. In support of this objective, the OB/GYN program addressed the issue of affordability for licensed obstetrician/gynecologists with outstanding eligible student loan expenses to practice in their field by providing reimbursement for these expenses in exchange for their practice in State-designated medically underserved areas pursuant to N.J.S.A. 18A:71C-35 for a period of four years from the date they received reimbursement. Pursuant to P.L. 2004, c. 17, this program was implemented for a limited duration that ended in 2007. The rules established by the Authority provide for the administration of the OB/GYN program. This subchapter is proposed for repeal as there are no longer any participants remaining in the program.

Subchapter 4 details the policies and procedures for participating in the Nursing Faculty Loan Redemption Program, which was signed into law on January 16, 2010. This program addresses the current and projected critical shortage of nurse faculty in the State by providing an incentive for persons to enter graduate nursing education programs and for persons already trained as nurses to advance their training in the profession, so as to ensure that sufficient numbers of nursing faculty are available to train nursing students, and the State’s hospitals, nursing homes, veterans’ facilities and home care services, and community care programs will have sufficient, trained nursing staff in the future to provide quality health care services to the residents of the State.

At N.J.A.C. 9A:10-4.2, the definition of “eligible institution” is proposed for amendment to reflect the replacement of the Commission on Higher Education with the Office of the Secretary of Higher Education pursuant to Executive Reorganization Plan No. 005 (2010).

Subchapter 5 remains reserved.

Subchapter 6 incorporates the rules governing the New Jersey College Loans to Assist State Students (NJCLASS) Program, the State’s supplemental student loan program, pursuant to N.J.S.A. 18A:71C-21 through 31. The NJCLASS Program is a State student loan program intended to supplement the subsidized Federal Stafford Loan Program and make State-sponsored student loans available to students who cannot obtain Federally backed student loans, either because those loans are not

available, because the student does not meet the program eligibility requirements as defined by the Federal government, or because the student has additional financial need unmet by Federally backed student loans. The proposed amendments to the NJCLASS Program rules are summarized below.

At N.J.A.C. 9A:10-6.3, the definition for “annual income” is proposed for amendment to clarify that applicants list their income on the loan application and that the listed income is subject to verification by the Authority.

A new definition for “co-borrower” is proposed to provide clarification as to the responsibilities of a person who applies for an NJCLASS Loan Program or NJCLASS Consolidation loan as a co-borrower.

The definition of “cosigner” has been expanded to include additional details of the responsibilities a person undertakes when applying for an NJCLASS Loan Program or NJCLASS Consolidation loan as a cosigner.

The NJCLASS Postgraduate Program is neither offered nor funded, as such the definition for “NJCLASS Postgraduate Program” is proposed for deletion and the definition for “Eligible Institution” is amended to delete the reference to the NJCLASS Postgraduate Program.

The definition for “parent borrower” is proposed for amendment to clarify that the definition pertains to parents who apply for and receive an NJCLASS Loan Program loan.

The definition for “student borrower” is amended to clarify that the definition pertains to students who apply for and receive either an NJCLASS Loan Program loan or an NJCLASS Consolidation Loan.

N.J.A.C. 9A:10-6.4(a)2 is proposed for amendment to state that the restriction on receiving new loans after the cancellation of a loan applies to cosigners as well as borrowers.

N.J.A.C. 9A:10-6.4(c) is proposed for amendment to state that in order to be eligible for the NJCLASS Graduate/Professional Students loan, a student must be enrolled or accepted for enrollment on at least a half-time basis in an eligible institution.

As the NJCLASS Postgraduate Program is neither offered nor funded, N.J.A.C. 9A:10-6.4(d) is proposed for deletion.

To clarify that a person is not yet a borrower or cosigner at the time creditworthiness is being determined, the terms “borrower” and “cosigner” are replaced with the term “applicant” in N.J.A.C. 9A:10-6.5(a) through (e).

N.J.A.C. 9A:10-6.5(e) is further proposed for amendment to clarify which requirements a cosigner and co-borrower must meet to be eligible for an NJCLASS loan.

The current rules cross-reference the bonds or notes whose proceeds are funding the loans to provide specificity for loan requirements. To provide further specificity, N.J.A.C. 9A:10-6.5(c) is proposed for amendment to reference the indentures for the bonds as opposed to the bonds themselves. Amendments to reference the indentures for the bonds are also proposed at N.J.A.C. 9A:10-6.8(a), (a)1, 6.9(a), and 6.13(f)1.

Reference to Postgraduate loans is proposed for deletion from N.J.A.C. 9A:10-6.7(e) as HESAA no longer offers this program.

N.J.A.C. 9A:10-6.8(a)2 is proposed for amendment to clarify how fees are deducted or added for multiple disbursed loans. Fees are added or deducted as equal percentages, not equal amounts, for each disbursement.

Technical corrections are proposed at N.J.A.C. 9A:10-6.11(b)3 to clarify that it is the payment of interest that is deferred at the frequency determined by the applicable bond indentures.

N.J.A.C. 9A:10-6.11(c) is proposed for deletion as HESAA no longer offers the Post Graduate loan.

N.J.A.C. 9A:10-6.12(b) is proposed for amendment to clarify that the deferment time limits do not apply to deferments for active duty in the armed forces.

As Federal regulations pertaining to FFELP are being deleted, N.J.A.C. 9A:10-6.12(d) 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 terms.

N.J.A.C. 9A:10-6.16(b) is proposed for amendment to clarify how collection costs are calculated and what they encompass. This amendment is necessary to provide borrowers with an amount certain at the time a demand is made.

Subchapter 7 incorporates the rules for the administration of the State's college savings program, the New Jersey Better Educational Savings Trust (NJBEST) Program, for which HESAA is statutorily responsible pursuant to N.J.S.A. 18A:71B-35 through 46 and in accordance with section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529. In the NJBEST Program, money saved by parents, grandparents, or others through the program is invested for a designated beneficiary. When the designated beneficiary is ready to attend college, the principal and interest earned can be used for college costs. This program also provides an additional incentive to families by offering a supplemental NJBEST scholarship if the designated beneficiary attends an eligible higher education institution in New Jersey. The rules contained in this subchapter are proposed for readoption in order to continue the State's initiatives to encourage families to save for future college expenses.

In order to alleviate confusion, N.J.A.C. 9A:10-7.15(a)iv is proposed to define first time enrollment for purposes of the NJBEST scholarship.

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

#### **Social Impact**

The rules proposed for readoption with amendments and repeals govern the administration of the State's student loan and savings programs. The rules continue to coordinate State and Federal regulations, policies, and procedures for the administration of the Federal Family Education Loan Program in New Jersey, thereby providing for greater efficiency, simplification, and timeliness in the servicing of loans guaranteed by the Authority under this student loan program.

The rules governing the administration of the Social Services Student Loan Redemption Program (SSSLRP) are proposed for readoption with no amendments and the rules governing the readoption of the Nursing Faculty Loan Redemption Program are readopted with one amendment to reflect the replacement of the Commission of Higher Education with the Office of the Secretary of Higher Education. Both of these programs are intended to address the critical shortage of direct care professionals in the State and ensure that high-quality health care continues to be available, so that State residents have access to this care from highly trained practitioners. The SSSLRP and Nursing Faculty Loan Redemption programs provide redemption incentives for social services practitioners and nursing faculty members employed by schools of nursing for their outstanding eligible student loan expenses in exchange for full-time employment at eligible locations as specified in the rules governing each program. These incentives will ensure that State residents who are in need of specialty health care services will continue to have sufficient, qualified providers available to provide these needed services.

The NJCLASS Program serves as the State's supplemental student loan program to help families complete their financial aid package in meeting higher education costs. The NJCLASS Program offers one of the lowest rate supplemental loans in the nation. The Authority continuously seeks to maintain and improve service to applicants and borrowers. The rules proposed for readoption with amendments provide further clarification of the policies and procedures governing the NJCLASS Program, as well as consistency with Federal regulations, where appropriate, in the Authority's efforts to continue to improve efficiency and service.

The rules proposed for readoption governing the New Jersey Better Educational Savings Trust (NJBEST) Program are intended to address the higher education expenses that are a major concern for many New Jersey families and provide the incentives that are needed to encourage families to save for college. The NJBEST Program is designed to increase the rate that families save for college and encourage long-term college savings. Because of its modest contribution requirements and its intent to minimize fees, the NJBEST Program facilitates access to college from a broad economic spectrum of New Jersey families.

#### **Economic Impact**

The rules proposed for readoption with amendments and repeals do not represent any new cost factors for the State. These rules implement Federal and State student financial assistance programs and a college savings program that make postsecondary education accessible and

affordable to thousands of New Jersey students and families. For many of these students, a Federal student loan is the primary source of financial aid, and presumably, without this aid many of these students would not be able to afford college. The Authority has administered Federal student loan programs for well over 45 years and is the State's guarantor for the FFELP. The entire cost of the Authority's Federal loan programs operations is Federally funded or self-generated. The Authority receives account maintenance, loan processing, and default aversion fees from the Federal government, as well as reinsurance on claim payments, retains a percentage of collections on defaulted student loans, and is permitted to charge a Federal default fee.

The SSSLRP and the Nursing Faculty Loan Redemption Program provide much needed assistance to program participants in the form of redemption or reimbursement of their eligible student loan expenses in exchange for full-time employment. SSSLRP is currently unfunded and the Nursing Faculty Loan Redemption Program receives 25 percent of the funds annually appropriated by the State for the Primary Care Practitioner Loan Redemption Program.

For the State's NJCLASS Loan Program, in operation since 1991, more than \$200 million was made available last year alone by the Authority in affordable NJCLASS loans. The entire cost of the program is self-generated through bond financing of NJCLASS loans. The NJCLASS Program offers one of the lowest rate supplemental loans in the nation. It is anticipated that the amendments will allow the Authority to keep interest rates as low as possible, and will continue the low rate of borrowers defaulting on their NJCLASS loans.

The NJBEST Program was designed to provide New Jersey families with incentives to increase savings for college in a time when higher education expenses have become a significant economic issue. NJBEST, the State's 529 College Savings Plan, provides extensive investment opportunities for families. Among them is a scholarship component for students who qualify and attend college in State. The rules governing the administration of the NJBEST Program provide flexibility in changing investment strategies, withdrawing funds, changing beneficiaries, and for rollovers, which the Authority believes will make it easier and more rewarding for families to save for college.

#### **Federal Standards Statement**

A Federal standards analysis is not required since the rules proposed for readoption with amendments are intended to implement the Federal statutory and regulatory requirements for the Federal Family Education Loan Program administered by the Authority in New Jersey. See the Federal Higher Education Act of 1965, as amended, and its implementing regulations set forth in 34 CFR Parts 600, 668, and 682. The proposed amendments addressing the FFELP explicitly limit their scope to areas where State law requires regulatory guidance, or where the Authority proposes policies and procedures that, while not exceeding Federal standards, implement those standards differently than unified industry standards set forth in the Common Manual.

A Federal standards analysis is not required for the Social Services Student Loan Redemption Program or the Nursing Faculty Loan Redemption Program since the rules proposed for readoption with amendments for both of these programs are not subject to any Federal requirements or standards.

With respect to the NJCLASS Program rules proposed for readoption with amendments, 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, not exceed the standards of that section.

The rules proposed for readoption for the administration of the NJBEST Program are not intended to exceed, but rather implement, 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. Therefore, a Federal standards analysis is not required.

**Jobs Impact**

The rules proposed for readoption with amendments and repeals will not result in the loss or generation of jobs. However, because the FFELP and NJCLASS programs administered by the Authority make postsecondary education accessible to thousands of New Jersey students and their families, they promote 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.

The rules proposed for readoption with amendments for the administration of the Social Services Student Loan Redemption Program and the Nursing Faculty Loan Redemption Program will not result in the loss or generation of jobs but will, however, provide incentives for health care professionals to practice in New Jersey through the redemption or reimbursement of their eligible student loan expenses in exchange for full-time employment at a qualified facility or in a State-designated underserved area.

Because the NJBEST Program provides incentives for saving for college and encourages participation from a broad economic spectrum, this program also promotes access to economic development through higher education. The rules proposed for readoption will not result in the loss or generation of jobs but do offer an additional scholarship incentive to attend college in New Jersey and encourage the retention of college-trained people in the New Jersey workforce, thereby adding to the skilled workforce in this State to meet employer needs.

**Agriculture Industry Impact**

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

**Regulatory Flexibility Statement**

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

**Housing Affordability Impact Analysis**

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

**Smart Growth Development Impact Analysis**

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

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 9A:10.

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 9A:10-1.9 and 3.

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

SUBCHAPTER 1. FEDERAL FAMILY EDUCATION LOAN PROGRAM: POLICIES AND PROCEDURES

9A:10-1.3 Definitions

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

...  
 “Blanket Certificate of Loan Guaranty” means an insurance program agreement with the Secretary of the United States Department of Education under which the Authority [may] offered eligible lenders participating in the Authority’s guaranty program a Blanket Certificate of Loan Guaranty that [permits] **permitted** the lender to make FFELP loans to eligible borrowers without receiving prior approval of individual loans from the Authority.

“Cohort default rate” means the percentage of FFELP and Federal Direct Student Loan Program (FDSL) borrowers who default [before] **by** the end of the **second** Federal fiscal year following the Federal fiscal year in which they entered repayment on their loans, **unless otherwise defined by the United States Department of Education**. The United States Department of Education calculates this rate annually to determine the default experience of students who attended a particular school during a particular period of time.

[“Commission” or “CHE” means the Commission on Higher Education, a State higher education policy-making agency presided over by a governing board, whose chairman is a member, ex officio, of the Authority. The Commission’s statutory responsibilities include final administrative decisions over institutional licensure and university status in this State.]

...  
 “Federal Family Education Loan Program” or “FFELP” means the collective term for the Stafford Loan Program (both interest subsidized and unsubsidized), the Supplemental Loan for Students or SLS Program, the Parent Loan for Undergraduate Students (PLUS) Program offered to graduate students and eligible parents of dependent undergraduate students, and the Consolidation Loan Program. The FFELP is a Federal-state-private sector partnership. Financial institutions [make] **made** FFELP loans with private capital, state-designated guaranty agencies, such as the Authority provided first-line insurance (guarantees for the loans), and the Federal government, through the Federal Department of Education, [provides] **provided** subsidies for student borrowers along with backstop reinsurance and general program oversight and regulation. **Pursuant to 20 U.S.C. § 1071(d) no new loans may be made or insured under FFELP after June 30, 2010.**

...  
 “Lender of last resort” means the Authority or a lender that [agrees] **agreed** to make certain FFELP loans, as prescribed by the United States Department of Education, to an otherwise eligible borrower who has been unable to obtain a loan from other eligible lenders.

...  
 “Master Promissory Note” or “MPN” means a common contract under which a borrower may receive loans for a single academic year or multiple academic years at institutions meeting United States Department of Education criteria in accordance with the Higher Education Act of 1965, as amended, [20 U.S.C. §1087vv] **20 U.S.C. § 1082(m)**, and its implementing regulations 34 CFR 682 et seq.

...  
 [“NCHELP Electronic Standards Committee” means the National Council on Higher Education Loan Programs Committee that is responsible for resolving electronic standardization issues as reported by the national student loan community at large, making recommendations for resolution and maintaining supporting documentation.]

...  
 “Servicer” means a third party with whom a FFEL Program participant, such as a lender, school, or guarantor, has entered into a contract, to administer any aspect of its participation in the FFEL Program. A servicer may also be defined as a “third-party servicer” under FFEL Program regulations, 34 CFR Part 682.**200.**

(b) (No change.)

## 9A:10-1.4 Role of the Authority as guaranty agency

(a) (No change.)

(b) Key guarantor functions are:

1. Financial aid awareness and related outreach activities: The Authority provides a [toll-free] **telephone** number and web site with information on colleges, careers and financing of higher education. The Authority makes presentations about financial aid opportunities and financial literacy at middle schools, high schools and other sites, holds training workshops for high school guidance counselors and campus administrators, publishes materials on all of the above topics and provides assistance in completing financial aid forms;

[2. Access to loans: The Authority furthers access to Federal loans by providing lenders with a guarantee against default, since students generally have no credit history or collateral and pose a risk to lenders absent such guarantee;

3. Application processing: The Authority validates application information on FFELP promissory notes submitted for guarantee by using information such as the Authority database of information provided by borrowers, schools, and lenders;]

Recodify existing 4.-8. as **2.-6.** (No change in text.)

[9.] **7.** School and lender [training and oversight] **guidance:** The Authority reviews, interprets, and disseminates information to schools and lenders about the requirements of the FFELP regulations and Federal subregulatory guidance (for example, [Dear Colleague Letters from the United States Department of Education] **the Common Manual**);

Recodify existing 10.-11. as **8.-9.** (No change in text.)

## 9A:10-1.5 Authority as lender and secondary market

(a) The Authority, which qualifies as an eligible lender under the Higher Education Act of 1965, as amended, [may] served as the State-designated lender of Federally guaranteed student and parent educational loans.

(b) (No change.)

## 9A:10-1.6 Types of FFELP loans

(a) A subsidized Federal Stafford loan [is] **was** available to an eligible student attending a participating postsecondary school. A student who [demonstrates] **demonstrated** financial need [is] **was** eligible to have the Federal government pay the interest on the loan to the lender until repayment of the loan [begins] **began** and during any deferment periods. The student is allowed a grace period (usually six months) after leaving school or dropping below half-time attendance before repayment begins. Repayment of the loan is scheduled [over a maximum 10-year period] according to the payment plan chosen by the borrower[, except that borrowers may qualify for an alternate repayment plan with an extended repayment period] pursuant to 34 CFR 682.209.

(b) An unsubsidized Federal Stafford loan [is] **was** available to an eligible student attending a participating postsecondary school. A student who [does] **did** not demonstrate sufficient financial need, or who [requires] **required** additional funds above the Federal subsidized loan limits, [is] **was** typically eligible for an unsubsidized Stafford loan. The Federal government does not pay the interest on an unsubsidized Stafford loan. An unsubsidized Stafford loan borrower is responsible for paying to the lender all interest that accrues on the loan from the time the loan is disbursed until it is paid in full.

(c) A [Federal] **FFELP PLUS** loan [is] **was** available to an eligible parent (as defined in 34 CFR 682.201(b)(2)) of a dependent undergraduate student or a graduate or professional student attending a participating postsecondary school. A PLUS loan borrower must not have adverse credit or otherwise must obtain an endorser on the loan. The parent is responsible for paying to the lender the interest that accrues on the loan from the time the loan is disbursed until it is paid in full. Repayment of the loan is scheduled [over a maximum 10-year period] according to the payment plan chosen by the borrower[, except that borrowers may qualify for an alternate repayment plan with an extended repayment period] pursuant to 34 CFR 682.209.

(d) A [Federal] **FFELP Consolidation** loan [is] **was** available to a borrower who [wants] **wanted** to combine his or her outstanding education loans into a single loan with a single monthly payment. In most cases, the borrower is responsible for paying to the lender the interest that accrues on the loan until the loan is paid in full. Consolidation loans

usually have a longer repayment period and a lower monthly payment than is available on the underlying education loans.

## 9A:10-1.7 Lender participation and lender of last resort

(a) To participate in any of the loan programs for which the Authority serves as guarantor, a lender is required to submit evidence acceptable to the Authority that it is an eligible lender under the Higher Education Act of 1965, as amended. If the Authority is satisfied that a lender meets the requirements for eligibility and participation under the Higher Education Act of 1965, as amended, the Authority may offer a participation agreement to that lender. A lender cannot participate in the Authority's programs without a participation agreement with the Authority. There are three principal types of Authority participation agreements: a participation agreement for lenders originating Stafford and PLUS loans, a participation agreement for lenders serving as secondary markets or holders of Stafford and PLUS loans, and a participation agreement for lenders originating Consolidation loans. The borrower eligibility criteria incorporated in participation agreements for lenders originating Consolidation loans is set forth in N.J.A.C. 9A:10-1.16(c). **The Authority does not enter new participation agreements for originating FFELP loans.**

(b) The Authority [shall] ensured that it or a participating lender [shall] served as lender of last resort in the State of New Jersey. [The lender of last resort shall make a FFELP loan to an otherwise eligible borrower who has been unable to obtain a loan from an otherwise eligible lender and who satisfies both the Federal regulatory criteria for eligibility and any further eligibility criteria provided in the lender of last resort policies and procedures cited in 34 CFR 682.401(c).]

## 9A:10-1.8 School participation

(a) To participate in any Title IV, Higher Education Act program, a school must establish its eligibility under the Higher Education Act of 1965, as amended, by following the procedures specified by the United States Department of Education. Upon being approved to participate in Title IV programs by the United States Department of Education, a school becomes eligible to apply for participation in the FFELP with the guarantor, such as the Authority. For any school, the Authority must be satisfied that the school has the ability to properly administer the FFELP according to Federal regulations and this chapter before it will approve the school for participation under its guarantee. To maintain its eligibility to participate, a school shall continue to meet all school eligibility requirements and must administer its loan programs in accordance with all requirements set forth in Federal law and regulations, as well as this chapter. If a school ceases to meet any Title IV eligibility requirement, the school must immediately provide written notice to the United States Department of Education and the Authority, if the Authority is the applicable guarantor.

(b) Both the Authority and the United States Department of Education require, as a condition of administrative capability, as defined under Federal regulations, that a school designate a capable individual to administer the FFEL Program and to coordinate the FFEL Program with the school's other Federal and non-Federal aid programs. The school shall ensure that an adequate number of qualified personnel are available to administer the loan programs, as provided in Federal regulations.

(c) To assist a school's financial aid administrator and staff in participating in the FFELP, the Authority shall in general provide assistance to institutions comparable to the kinds of assistance provided to institutions by the United States Department of Education. This assistance may include, but not be limited to, sponsoring of training conferences, participating in State, regional and national associations of financial aid administrators, issuing a newsletter, staffing a customer assistance unit (including a toll-free hotline), and offering an internet website.]

[(d)] **(a)** A school shall develop procedures to ensure that student status changes are reported correctly and in a timely manner, pursuant to 34 CFR [682.400(b)(20)] **668.14(b)(4)**, to the Authority, to NSLDS, to the lender or to all three, as appropriate. Some schools may elect to satisfy this requirement through participation in the National Student Clearinghouse or another entity providing student status reporting services in which the Authority participates. For schools not yet providing student status information to NSLDS, the Authority shall

provide a school, on at least a semiannual basis, with a Student Status Confirmation Report (SSCR) listing all students for whom FFELP loans have been obtained for attendance at the school. NSLDS distributes SSCR data to the Authority and other guarantors, and guarantors notify lenders of student status changes. Information and instructions on completing rosters for student status reporting to NSLDS are provided to schools by the United States Department of Education.

(e) (b) (No change in text.)

**9A:10-1.9 (Reserved)**

9A:10-1.10 Permissible charges by lenders to borrowers

(a) (No change.)

(b) As provided under the Higher Education Act of 1965, as amended, a lender [is] **was** permitted to pay a portion or all of the origination fee on a subsidized or unsubsidized Stafford loan on the borrower's behalf. The lender [must] charged all Stafford borrowers the same origination fee unless the borrower [demonstrates] **demonstrated** greater financial need as further defined under 34 CFR 682.202. In contrast, lenders [are] **were** required to charge the full origination fee to PLUS borrowers.

9A:10-1.11 Guarantee and disbursement

(a) A lender [shall be] **was** responsible for obtaining guarantees and disbursing proceeds for Stafford, PLUS, and Consolidation loans. When the Authority [receives] **received** a request for processing a loan guaranty, the Authority [sends] **sent** the lender either a student loan Guaranty Notice/Disclosure Statement or an electronic file of guaranty processing results or both. This [is] **was** the lender's guarantee and authorization to disburse the funds. Notification of guaranty [shall be] **was** sent to the student and the school at the same time. In the case of Stafford and PLUS loans processed under a Blanket Certificate of Loan Guaranty with an eligible lender, all loans eligible for insurance [will be] **were** considered insured at the time of lender origination. Lenders [shall be] **were** required to report such loans to the Authority for guaranty processing, and the Authority [shall] provided either a confirming notice of guaranty for the loans covered under the certificate or a notice that the loan does not meet the Authority's loan insurance requirements. In the case of Consolidation loans, upon approval of the loan application, the Authority [will send] **sent** the lender an approval notification. While the Authority focuses its attention on its area of service (borrowers, students, and schools in New Jersey and surrounding states), the Authority imposes no guarantor specific requirements for obtaining a loan guarantee except for requirements referenced in this subsection for loans processed under a Blanket Certificate of Loan Guaranty and the eligibility requirements for Consolidation loans set forth in N.J.A.C. 9A:10-1.16(c). The requirements for obtaining a guarantee are set forth in 34 CFR [part] **Part** 682, and more fully explained in the Common Manual.

(b) Disbursement is the transfer of loan proceeds by the lender to a borrower, school, or escrow agent, net of any origination and Federal default fees. Disbursement [may be] **was** accomplished by checks for individual borrowers, by master checks containing loan proceeds for more than one borrower, or by electronic funds transfer, in accordance with 34 CFR Part 682. A Stafford loan disbursed by individual check [shall be] **was** made copayable to the student and the school. If the lender [issues] **issued** an individual Stafford loan check, the lender [is] **was** required to indicate the student's social security number, enrollment period for the loan, and the type of loan on each individual loan check. If the lender [issues] **issued** an individual PLUS loan check, the lender [is] **was** required to indicate the student's name and social security number on each individual loan check.

(c) In the case of a student enrolled in an eligible foreign school, if the foreign school [requests] **requested**, the lender [shall] disbursed a Stafford loan directly to the student only after verification of the student's enrollment by the lender or guaranty agency. If the student [is] **was** enrolled in a study-abroad program approved for credit by the home school and if the student [requests] **requested**, the lender [may] disbursed the loan directly to the student only after verification of the student's enrollment with the home institution by the lender or guaranty agency; or to the home institution if the borrower [provides] **provided** a power-of-attorney to an individual not affiliated with the institutions to endorse the check or complete an electronic funds transfer authorization.

(d) A Stafford or PLUS loan [may be used] **was** only **permitted to be used** to cover the educational costs of attendance at the school that [certifies] **certified** the borrower's loan eligibility. If a student [transfers] **transferred** between schools at any time, neither the student nor the parent borrower [are] **were** eligible to receive proceeds from a loan approved as a result of the borrower's loan eligibility certified by the previous school. If a student [transfers] **transferred** from one school to another before a loan [is] **was** fully disbursed, the student or parent borrower [is] **was** not eligible for any remaining disbursements of that loan, and the student or parent borrower [shall] **was** required to notify the lender to cancel the loan or the balance of any undisbursed portion of the loan.

9A:10-1.14 Default consequences and collection policies and procedures

(a) (No change.)

(b) The Authority participates in information exchanges with the Department of Labor **and Workforce Development**, the **Department of the Treasury**[Division] **Divisions** of Taxation, [Division of] **and Lottery, Department of Law and Public Safety**, Division of Consumer Affairs, and other State agencies and bodies, as well as public and private sector entities within or outside this State for purposes of collecting on defaulted student loans. Additionally, the Authority receives data from the National Directory of New Hires.

(c) (No change.)

9A:10-1.15 Beyond default: rehabilitation and reinstatement

[The Authority encourages borrowers] **Borrowers** who have defaulted on their FFELP loan obligations [to] **may** enter into repayment arrangements that qualify them for reinstatement of the ability to receive benefits, including [FFELP] **Federal** loans, under Title IV of the Higher Education Act, and that rehabilitate their loans, thereby bringing the loans out of default. The requirements for reinstatement are set forth in 34 CFR 682.401 and more fully explained in subregulatory Federal guidance[ and the Common Manual]. The requirements for rehabilitation are set forth in 34 CFR 682.405 [and more fully explained in the Common Manual].

9A:10-1.16 Loan transfer, refinance, and consolidation

(a) (No change.)

(b) As permitted under 34 CFR 682.209, a borrower may refinance a PLUS or SLS loan. The three options for refinancing a PLUS or SLS loan are refinancing to secure a combined payment, refinancing to secure a variable interest rate, and refinancing to discharge a previous loan. These three options are set forth under 34 CFR 682.209 and more fully explained in the Common Manual, Appendix B.]

(c) (b) The Authority [participates] **participated** in the Federal Consolidation Loan Program in accordance with section 428C of the Higher Education Act of 1965, as amended, and its implementing regulations **by guaranteeing Consolidation Loans held by eligible lenders**. [To participate in the Authority's consolidation program, an eligible lender must be approved by the Authority to enter into a Consolidation Participation Agreement with the Authority, and sign this Agreement. To qualify for the Authority's Consolidation Loan Program, a borrower must satisfy the eligibility criteria set forth in section 428C and implementing regulations, as well as satisfy Authority criteria which include not incorporating a defaulted loan in a Consolidation loan, and evidencing a connection to New Jersey, unless otherwise permitted by the Authority. Evidencing a connection to New Jersey shall mean that either at least one underlying loan to be consolidated was guaranteed by the Authority or that the borrower is a New Jersey resident at the time of consolidation.] The Consolidation Loan Program is more fully explained in the Common Manual.

9A:10-1.17 School and lender [training and other] services

As permitted under the Higher Education Act of 1965, as amended, the Authority may use funds in the Authority's operating fund for [application processing, loan disbursement,] enrollment and payment status management, default aversion activities, default collection activities, school and lender training, financial aid awareness and related outreach activities, compliance monitoring, and other student financial aid and related activities as selected by the Authority. The Authority's outreach or "client services" activities shall include, but not be limited to,

training of program participants and secondary school personnel, dissemination of [FFELP-related] information and materials to schools, loan holders, prospective loan applicants, and their parents, and training at workshops, conferences or other forums. The Authority [issues a newsletter on student financial assistance topics, and] maintains an internet website.

9A:10-1.18 Authority guaranty agency enforcement requirements:  
program reviews

(a) The Authority is required by FFELP regulations, 34 CFR Part 682, to conduct comprehensive biennial program reviews of certain [schools and] lenders participating in the FFELP. The Authority may collaborate with other guarantors in performing lender reviews pursuant to the Common Review Initiative. Program reviews are conducted to assess the administrative and financial capability of [schools and] lenders with applicable requirements of the FFELP. These requirements are those of the Higher Education Act of 1965, as amended, the Federal regulations (34 CFR Parts 600, 668, and 682), and Authority policies and procedures. The Authority may elect to review third-party servicers of [schools and] lenders. The Authority may also elect to review other agents, such as special counsel performing litigation on defaulted FFELP loans. If the Authority elects to review third-party servicers, it shall follow the program review process for servicers outlined in the Common Manual.

(b) The Authority shall perform a biennial program review of each school in any state in which the Authority is the primary guarantor that has had a cohort default rate exceeding 20 percent for either of the two most recent years for which rates have been calculated. A school shall be exempted from review if it meets the loan volume limit on the default reduction measures outlined in 34 CFR 682.410(c). The Authority may request that the United States Department of Education approve substitutions to its list of required school reviews. In addition to the Federal criteria used in selecting schools for review, the Authority may consider other factors, such as those listed in the Common Manual. These other factors are: loan volume trends, significant increases in cumulative or cohort default rates, evidence of regulatory violations, evidence of potential fraud or abuse in its FFELP participation, evidence that the school has been placed on the Pell reimbursement system for payment, complaints from lenders, borrowers, or students, evidence that the school has failed to adequately address deficiencies identified in prior program reviews, evidence that the school has failed to implement improvements to reverse negative financial trends, and weaknesses identified during the process by which schools first obtain FFELP eligibility.]

(c) (b) (No change in text.)

(d) (c) A program review begins when the [school or] lender is selected for review and ends when the Authority accepts a satisfactory response to the review findings from the [school or] lender and all close-out procedures are completed. The program review consists of four phases: the preliminary review, the on-site review, the issuance of a program review report, and the review close-out.

(e) (d) Preparation for the review is as follows:

1. The Authority or CRI review team shall notify the [school or] lender to be reviewed, provide the date(s) of the on-site review, and request administrative and financial information related to the entity's eligibility and participation in the FFELP. Prior to the on-site review, the reviewer shall develop a profile of the [school or] lender from data maintained by the Authority or CRI participating guaranty agencies. [For lenders, this] **This** data includes loan volume, [student] **borrower** populations and sample, and lender search report. [For schools, this data includes Stafford and PLUS loan volume for the period, training attendance record, and borrower complaints, if any.] The reviewer may also require the [school or] lender to complete a questionnaire on internal control procedures and policies related to its administration of the FFELP.

2. The administrative and financial information normally required for the on-site visit **for lenders** includes, but is not limited to, [the following for schools: school catalog, documentation from prior program reviews, independent audit results, student financial aid audit results, audited financial statements, program participation agreement, accreditation reports or certification, State licensing documentation, default management plan, if applicable, and individual borrower files. For lenders, this information includes, but is not limited to,] FFELP lending

policies, documentation from prior program reviews, independent audit results, information from the United States Department of Education Lender Reporting System (LaRS), documentation of loan transfers, and individual borrower files.

(f) (e) The Authority or CRI review team shall provide the [school or] lender the opportunity to present questions or supply additional information. The [school or] lender being reviewed shall cooperate with the review team by making staff available to reviewers at entrance and exit interviews and by supplying additional material to reviewers if requested during the on-site visit.

(g) (f) Program review follow up and other enforcement procedures are as follows:

1. The reviewer shall issue a program review report to the [school or] lender being reviewed.

2. The program review ends when all required actions are completed and all liabilities are paid by the [school or] lender being reviewed.

3. When the program review ends, the reviewer shall notify the [school or] lender in writing that the program review is closed. The reviewer shall also update the Postsecondary Education Participants System (PEPS) database. The reviewer shall at the same time notify the United States Department of Education that the program review is closed.

4. If the Authority or CRI review team is unable to close a program review because the [school or] lender is uncooperative in taking the required corrective action, the reviewer shall refer the case to the United States Department of Education.

5.-6. (No change.)

### SUBCHAPTER 3. (RESERVED)

#### SUBCHAPTER 4. NURSING FACULTY LOAN REDEMPTION PROGRAM

##### 9A:10-4.2 Definitions

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

...  
"Eligible institution" means a school of nursing that is nationally accredited and licensed by the New Jersey Board of Nursing or a nursing program at [a Commission on] **an Office of the Secretary of Higher Education** licensed institution of higher education that is nationally accredited and licensed by the New Jersey Board of Nursing.

...

#### 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:

...  
"Annual income" means the [borrower's] **applicant's** income as reported [for Federal income tax purposes] **on the NJCLASS Loan Program or NJCLASS Consolidation Loan application. Annual income is subject to verification by the Authority through documentation including, but not limited to, Internal Revenue Service tax return transcripts and pay stubs.**

...

...  
"Co-borrower" means **an individual who is a party to the loan. The co-borrower assumes full liability for the debt, including interest charges, late fees, and collection costs. The co-borrower is subject to all of the same collection methods as the borrower and the lender can collect the debt from the co-borrower without first trying to collect from the borrower.**

...

...  
"Cosigner" means an individual who signs a promissory note and agrees to repay the loan in the event the borrower does not. **The cosigner assumes full liability for the debt, including interest charges, late fees, and collection costs. The cosigner is subject to all of the same collection methods as the borrower and the lender can collect the**

debt from the cosigner without first trying to collect from the borrower.

“Eligible institution” means a public or private nonprofit institution eligible for Title IV, Higher Education Act of 1965 assistance, approved or licensed by the New Jersey Commission on Higher Education or its equivalent in another state or country and accredited by a nationally recognized accrediting association and having an annual cohort default rate of 25 percent or less. Eligible institution shall also include proprietary institutions eligible for Title IV, Higher Education Act of 1965 assistance and having an annual cohort default rate of 25 percent or less. An eligible institution for purposes of the NJCLASS Graduate/Professional Students Program shall have a lower cohort default rate threshold, as set forth in N.J.A.C. 9A:10-6.4(c)2. [Eligible institution for purposes of the NJCLASS Postgraduate Program means an American Bar Association approved law school, a graduate medical school accredited by the Liaison Committee on Medical Education, the American Osteopathic Association or the U.S. Department of Education’s National Committee on Foreign Medical Education and Accreditation (NCFMEA), or a graduate dental school accredited by either the American Dental Association or the Commission on Dental Accreditation of Canada.]

“NJCLASS Postgraduate Program” means an NJCLASS program for law, medical, and dental students intended to assist with higher education costs incident to the cost of attendance, such as bar examination and medical and dental residency travel and relocation expenses. The provisions governing Standard NJCLASS loans in this subchapter shall apply to NJCLASS Postgraduate loans, unless this subchapter otherwise provides. The Authority may offer the NJCLASS Postgraduate Program subject to the availability of funding and conditioned on market demand.]

“Parent borrower” means a parent(s), spouse, legal guardian, or other relative of a dependent undergraduate or graduate student **who applies for and receives an NJCLASS Loan Program loan.**

“Student borrower” means an undergraduate or graduate student **who applies for and receives an NJCLASS Loan Program loan or NJCLASS Consolidation Loan.**

(b) (No change.)

9A:10-6.4 Eligibility for the NJCLASS Loan Program

(a) To be eligible for a Standard NJCLASS loan, each applicant must:

1.–2. (No change.)

3. Provide an acceptable cosigner if it is determined by the Authority that one is required; and in the case of any Federal Family Education Loan amount, Federal Direct Loan amount, or any NJCLASS Loan Program loan or Consolidation Loan amount that previously was canceled due to the applicant’s total and permanent disability, obtain a certification from a physician that the applicant’s condition has improved and that the applicant is able to engage in substantial gainful activity and sign a statement acknowledging that the Standard NJCLASS loan the applicant receives cannot be canceled in the future on the basis of any impairment present when the new loan is made, unless that impairment substantially deteriorates. If the applicant is not the student, and the student had any loan amount described in this paragraph canceled due to the student’s total and permanent disability, the student on whose behalf another borrower **or cosigner** is applying for a Standard NJCLASS loan must obtain the physician certification as to the student’s improvement and sign the statement limiting future cancellation on the basis of the student’s present impairment; and

4. (No change.)

(b) (No change.)

(c) To be eligible for an NJCLASS Graduate/Professional Students loan for student borrowers, each student must satisfy the requirements of (b)1, 3, 4, and 6 above, as well as the following:

1.–5. (No change.)

[(d) To be eligible for an NJCLASS Postgraduate loan for student borrowers, each student must satisfy the requirements of (b)1, 3 and 7 above as well as the following:

1. Be a permanent resident of New Jersey prior to filing an application; however, residency is not required if enrolled in an eligible institution for purposes of this program that is located in New Jersey, meaning that either the institution maintains a campus or the place of instruction is located in New Jersey. An eligible institution is an American Bar Association approved law school, a graduate medical school accredited by the Liaison Committee on Medical Education, the American Osteopathic Association, or the U.S. Department of Education’s National Committee on Foreign Medical Education and Accreditation (NCFMEA), or a graduate dental school accredited by either the American Dental Association or the Commission on Dental Accreditation of Canada;

2. Be enrolled in the final year at an eligible institution, be making satisfactory academic progress, and expect to be awarded a J.D., M.D., D.O., D.D.S. or D.M.D. degree during the current academic year;

3. Not owe a grant refund, be in default on a student loan, have a student loan written off as uncollectible, or have adverse credit as outlined in N.J.A.C. 9A:10-6.5(d); and

4. School certification of the NJCLASS application no earlier than one year prior to the student’s anticipated graduation date and no later than the student’s actual graduation date.]

[(e)] (d) To be eligible for a MedNJ loan, each student must satisfy the requirements of (b)1, 2, 3, 6, and 7, and (c)3 and 5 above as well as the following:

1. (No change.)

9A:10-6.5 NJCLASS creditworthiness

(a) To be approved for an NJCLASS Loan Program loan, [a borrower] **an applicant** must be determined creditworthy by the Authority.

(b) The Authority may require that [borrowers or cosigners] **applicants** submit to the Authority information that includes the most recent signed Federal Income Tax Return, including all schedules, and current pay stub or other documentation of income, if applicable. For joint filers, this documentation may include the current pay stub or other documentation of income, if applicable, of both filers.

(c) To be approved for a Standard NJCLASS loan, a creditworthy [borrower or cosigner] **applicant** must have documentable annual income that exceeds Federal poverty guidelines, as adjusted annually by the United States Department of Health and Human Services. The amount by which income must exceed Federal poverty guidelines is determined by the **indentures for the** bonds or notes whose proceeds are funding the loan.

(d) [A borrower or cosigner] **An applicant** with one or more of the items listed below in his or her credit history may be denied a Standard NJCLASS loan for not being creditworthy. These items include delinquent accounts, paid and unpaid collection accounts, paid and unpaid charged off accounts, foreclosure, repossession, bankruptcy, or a paid or unpaid judgment.

(e) [Borrowers] **Applicants** who do not meet the income and credit requirements may reapply with an eligible **co-borrower or** cosigner who does meet the **income and credit** requirements of this section.

9A:10-6.7 Application procedures, disbursement, and students who transfer

(a)–(d) (No change.)

(e) An NJCLASS Loan Program loan may be used only to cover the educational costs of attendance at the school that completes the school certification form providing school data. [NJCLASS Postgraduate loans may be used to cover the educational expenses incident to the educational costs of attendance at the school that completes the school certification form providing school data.] The school must return to the Authority any refund of NJCLASS proceeds resulting from a student’s withdrawal, after satisfying any outstanding accounts receivable. If a student transfers between schools at any time, neither the student nor the parent borrower are eligible to receive proceeds from an application and promissory note for which the school certification form was completed by the previous school. If a student transfers from one school to another before a loan is fully disbursed, the student or parent borrower is not eligible for any remaining disbursements of that loan, and the student or parent borrower must notify the Authority to cancel the loan or the balance of any undisbursed portion of the loan. The student or parent borrower may submit a second application and promissory note with new cost of



attendance and estimated financial assistance figures certified by the new school.

#### 9A:10-6.8 Fees

(a) As determined by the **indentures for the** bonds or notes whose proceeds are funding the loan or by the NJCLASS Application and Promissory Note if the loan is funded through other means, a recipient of an NJCLASS Loan Program loan may be required to pay an application and an administrative fee to the Authority, which combined shall not exceed five percent of the total approved loan amount.

1. Pursuant to the loan disclosure statements accepted by the borrowers, these fees shall either be deducted from the loan proceeds or added to the loan balance. The **indentures for the** bonds or notes whose proceeds are funding the loan determine whether the fees shall be deducted from the loan proceeds or added to the loan balance.

2. For [multiply] **multiple** disbursed loans, **an equal percentage of** these fees shall be deducted or added [in equal installments,] from each loan disbursement.

(b) (No change.)

#### 9A:10-6.9 Interest

(a) The NJCLASS Loan Program loan shall have a daily fixed simple annual interest rate, a variable interest rate, or another type of interest rate, as determined by the **indentures for the** bonds or notes whose proceeds are funding the loan or by the NJCLASS Application and Promissory Note if the loan is funded through other means. For NJCLASS Loan Program loans funded through bonds, the NJCLASS Loan Program interest rate will be a pass through rate of the bond interest rate, associated costs of sale, and such other costs or reserves which may be required, and/or determined as the bonds are issued.

(b) (No change.)

#### 9A:10-6.11 Repayment of loan

(a) (No change.)

(b) There are three primary repayment options for NJCLASS Loan Program loans. The details and eligibility criteria for each specific option and their variations may be restricted by the bond indentures. Borrowers shall indicate preferred repayment options while applying for an NJCLASS Loan Program loan. Applications cannot be processed until a repayment option is selected. The Authority shall make best efforts, based on available funding, to offer borrowers the repayment option selected. If the selected option is unavailable the loan offer will include the most similar available repayment option. The interest rate is established by the Authority pursuant to N.J.A.C. 9A:10-6.9(a). The three primary repayment options for an NJCLASS loan are as follows:

1.-2. (No change.)

3. Borrowers are not required to pay principal or interest until graduation, withdrawal, or notification of less than half-time enrollment of the student on whose behalf the loan was obtained. Once one of these circumstances occurs, the loan reverts to a repayment schedule as set forth in (b)1 above. However, **payment of** interest accrued from the date of loan disbursement is deferred, and is capitalized (added to principal) on an annual basis, or more frequently as determined by the **applicable** bond indentures. The first monthly payment of principal and interest shall be required within 60 days after the reversion date.

[(c) In the case of an NJCLASS Postgraduate loan, borrowers may pay, but are not required to pay, principal or interest until the end of the deferment period. After the end of the deferment period, the loan reverts to a repayment schedule as set forth in (b)1 above. Interest accrued from the date of loan disbursement is deferred and capitalized on an annual basis and at the end of the deferment period. The deferment period for an NJCLASS Postgraduate loan means the period beginning on the initial disbursement date and ending on:

1. If the NJCLASS Postgraduate loan is for medical or dental residency travel and relocation expenses, the date that is nine months after the date of graduation, withdrawal, or notification of less than half-time enrollment at the eligible institution named in the NJCLASS Application and Promissory Note unless on such date the borrower is participating in a required residency or postdoctoral program, in which event the deferment period will end on the date that is nine months after the date the borrower completes or otherwise ceases to participate in such

program. In no event shall the deferment period end later than 57 months after the date the borrower graduates from medical school or 33 months after the date the borrower graduates from dental school. To be considered participating in a required residency or postdoctoral program during any one-year period requires that the borrower submit to the Authority a certification from the director of such program for such year; or

2. If the NJCLASS Postgraduate loan is for bar examination expenses, the date is nine months after the eligible institution indicated to be the borrower's anticipated or actual graduation date on the NJCLASS application.]

Recodify existing (d) and (e) as **(c) and (d)** (No change in text.)

[(f)] **(e)** Notwithstanding any periods of deferment and/or forbearance, NJCLASS Loan Program loans shall be paid in full within the amount of years from the date of first disbursement as specified in the NJCLASS Application, Promissory Note, and disclosures. The amount of years in which a loan is to be repaid is determined by the **indentures for the** bonds or notes whose proceeds are funding the loan.

Recodify existing (g) and (h) as **(f) and (g)** (No change in text.)

#### 9A:10-6.12 Deferments and forbearance

(a) (No change.)

(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 **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 deferments.

(c) (No change.)

(d) The Authority may also, at its discretion, grant borrowers periods of forbearance in the repayment of the NJCLASS Loan Program 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 Loan Program debt payments.** The maximum allowable time period for [economic] **financial hardship** forbearance 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. In granting a forbearance, the Authority permits a temporary cessation of principal payments and temporarily permits payments of interest only, or a temporary cessation of both principal and interest payments. Interest continues to accrue during all forbearance periods.

#### 9A:10-6.13 Consolidation Loan Program

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

(f) An NJCLASS Consolidation 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. Cosigners shall be required to meet the minimum income or creditworthy determination by the Authority if the borrower or co-borrower are unable to do so.

1. To be approved for an NJCLASS Consolidation loan, a creditworthy borrower, co-borrower or cosigner shall have documentable annual income that exceeds Federal poverty guidelines, as adjusted annually by the United States Department of Health and Human Services. The amount by which income must exceed Federal poverty guidelines is

determined by the **indentures for the** bonds or notes whose proceeds are funding the loan.

- 2. (No change.)
- (g)–(n) (No change.)

9A:10-6.16 Default and consequences of default

- (a) (No change.)

(b) Upon default, the borrower and/or cosigner, if any, are liable for the entire balance of the loan. Upon default, the Authority shall notify credit bureaus of this negative information. Default may result in any or all of the following: expedited increase of interest rate, loss of State income tax refunds or State tax rebates, legal action, [assessment of collection charges including attorney fees of up to 30 percent of the debt collected,] loss of eligibility for other student aid, negative credit reports, administrative wage garnishment, offset of lottery prize winnings, [and] suspension of New Jersey occupational and professional license[.] **and assessment of collection charges including attorney fees up to 30 percent of the debt owed. Collection costs, which encompass the cost of processing, handling, and collecting such debt, become due and owing at the time the account is placed with outside counsel and shall be added to the balance owed regardless of whether the total amount is actually collected.**

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

9A:10-7.15 Eligibility for NJBEST scholarship

(a) An additional amount of \$500.00, subject to appropriations available therefor, shall be credited toward the qualified higher education expenses of a designated beneficiary at the time of a qualified withdrawal provided:

1. The contributor demonstrates to the satisfaction of the Authority that the contributor participated in the program by making and not withdrawing a qualifying minimum initial deposit of \$1,200 or that qualifying minimum annual contributions of \$300.00 for a designated beneficiary were made by persons based on the time periods for crediting these contributions in (a)1i through iii below. In all cases involving the eligibility of a designated beneficiary for an NJBEST scholarship, the Authority reserves the right to make the final determination as to whether contributions have met the time periods as stated in this paragraph for participation in the NJBEST Program.

- i.–iii. (No change)

**iv. First time enrollment is defined as the first time a student enrolls on either a full- or half-time basis at any institution of post-secondary education. Students who have previously attended another institution of post-secondary education are not first time students. For semester schools, if a student’s first term of enrollment is for the summer or winter term, the scholarship is awarded for the succeeding fall or spring semester.**

- 2.–3. (No change.)
- (b)–(e) (No change.)

**HUMAN SERVICES**

**(a)**

**DIVISION OF MENTAL HEALTH AND ADDICTION SERVICES**

**Family Support Services**

**Proposed Readoption with Amendments: N.J.A.C. 10:371**

Authorized By: Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4-177.43 et seq., specifically 30:4-177.52.

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

Proposal Number: PRN 2016-080.

Submit comments by August 5, 2016, to:

Lisa Ciaston, Esquire  
 Legal Liaison  
 Division of Mental Health and Addiction Services  
 PO Box 700  
 Trenton, New Jersey 08625-0700  
 or electronically at: [DMHAS.RuleComments@dhs.state.nj.us](mailto:DMHAS.RuleComments@dhs.state.nj.us).

The agency proposal follows:

**Summary**

The Department of Human Services (the Department), through the Division of Mental Health and Addiction Services (the Division), has reviewed N.J.A.C. 10:371, Family Support Services, and has determined these rules to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Technical amendments are necessary in order to clarify and update regulatory language. Therefore, the Department is proposing to readopt these rules with amendments.

N.J.A.C. 10:371, Family Support Services, expires on May 11, 2016. As the Division submitted this notice of proposal to the Office of Administrative Law prior to that date, pursuant to N.J.S.A. 52:14B-5.1.c(2), the expiration date of N.J.A.C. 10:371 is extended 180 days to November 7, 2016.

As the Department has provided a 60-day comment period for 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.

The purpose of these rules is to govern the planning and delivery of family support services required by P.L. 1995, c. 314 (N.J.S.A. 30:4-177.43 et seq.), and funded by the Division, to families who provide care in the community for a family member with a serious mental illness. These rules assure an organized system of family support, promote the efficient and effective use of State funds by providers, and assure that quality services are delivered to families with a family member with a serious mental illness.

When families are integrally involved in the care of a family member with a serious mental illness, the families should be provided with the supports they need to sustain that family member with dignity in a community setting, within available funding limits. Family support services are a coordinated system of ongoing public and private support services, which are designed to maintain and enhance the quality of life of a family and improve its functioning. An important component of this system is intensive family support services (IFSS), comprised of a range of family-driven, supportive activities including, but not limited to, psychoeducation, individual family consultations, multiple family support groups, respite, referral/service linkage, and advocacy. Services shall be offered to parents, spouses, siblings, and children of adults with a serious mental illness. Others who may use such services include relatives who are closely involved in and concerned about the daily functioning of the family member with a serious mental illness or non-relatives who are the primary caregivers.

The rules are comprised of five subchapters. N.J.A.C. 10:371-1 defines the purpose and authority, scope, and definitions. N.J.A.C. 10:371-2 defines the general eligibility. N.J.A.C. 10:371-3 describes the role of the family support coordinator. N.J.A.C. 10:371-4 details the responsibilities and membership of the regional and Statewide family support working groups required by P.L. 1995, c. 314. N.J.A.C. 10:371-5 defines the scope and purpose of the IFSS program including, written policies and procedures, population priorities, admission criteria, criteria for termination of services, service planning and services to be provided, service coordination, assessment, service preferences and record documentation, staffing requirements, and quality assurance.

The Division convened a workgroup consisting of service providers, family advocates, the family support coordinator working under the direction of a Statewide family advocacy organization, Division and Department Office of Licensing (OOL) staff to review these rules and determined that technical amendments are required.

An amendment is proposed at N.J.A.C. 10:371-1.1 and 1.3 to reflect the current name of the Division of Mental Health and Addiction Services. In the Fiscal Year 2010-2011 State Appropriations Act, the former Division of Mental Health and the former Division of Addiction