

the burning chamber of greater than or equal to one million BTU/hr and less than five million BTU/hr.

A general operating permit is a pre-approved permit to construct and operate for major facilities, issued pursuant to N.J.A.C. 7:27-22.14, for one or more types of similar sources at a major facility. A major facility operator with a qualifying source may register for and operate under the conditions of the general operating permit, rather than submit a modification to the facility's operating permit.

The Department published notice of the proposed general operating permit in the July 6, 2015, New Jersey Register at 47 N.J.R. 1675(a), pursuant to the Air Pollution Control Act, N.J.S.A. 26:2C-9.2. No public comments were received.

This general operating permit is issued under the authority of N.J.S.A. 26:2C-9.2 and N.J.A.C. 7:27-22.

#### How to Obtain a General Operating Permit

To view the requirements of any general operating permit, go to [www.nj.gov/dep/aqpp](http://www.nj.gov/dep/aqpp). To register for an available general operating permit, click on the online application hyperlink under the general operating permit and follow the directions.

For technical questions please contact the Operating Permit Help Line number at 609-633-8248.

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

7:27-22.14 General operating permits

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

(c) A general operating permit is available for the following sources:

1.-3. (No change.)

4. A single emergency generator, 2007 model year or later, having a maximum heat input rate less than or equal to 30 million BTU per hour (MMBTU/hr) based on the higher heating value (HHV) of the fuel, and complying with the New Source Performance Standard for Stationary Compression Ignition Internal Combustion Engines, 40 CFR 60 (NSPS Subpart III). The general operating permit is titled, Emergency Generator (GOP-003); [and]

5. Emergency generator burning gaseous fuels (GOP-004)[.]; and

**6. Boiler or Heater, greater than or equal to one MMBTU/hr and less than five MMBTU/hr (GOP-007).**

(d)-(f) (No change.)

## HIGHER EDUCATION

### (a)

#### HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

#### Student Loan and College Savings Programs

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

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

Proposed: June 6, 2016, at 48 N.J.R. 902(a).

Adopted: October 26, 2016, by the Higher Education Student Assistance Authority, Anthony Falcone, Chairperson.

Filed: October 26, 2016, as R.2016 d.164, **with a non-substantial change** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 18A:71A-1 et seq., 18A:71B-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.

Effective Dates: October 26, 2016, Readoption;  
November 21, 2016, Amendments.

Expiration Date: October 26, 2023.

#### Summary of Public Comments and Agency Responses:

The Authority received comments from David McMillin on behalf of Legal Services of New Jersey, Deborah A. Carney-Gumper, Marielle

Meth, Mary J. O'Mara, Conor O'Mara, Tracey Timony, and Kirsten Volkert, which are summarized below.

COMMENT: Mr. McMillin states that the Higher Education Student Assistance Authority (HESAA) should implement a rehabilitation program for NJCLASS loans. He asserts that "it would satisfy HESAA's statutory mandate under N.J.S.A. 18A:71C-29, it would substantially enhance the fairness of the NJCLASS program for the most economically-vulnerable borrowers, there is no impediment under Federal law, and it would allow many NJCLASS loans to move from non-performing to performing status." Mr. McMillin supports his assertions with the following arguments. Mr. McMillin asserts that the Authority is statutorily required to implement borrower protections comparable to those available to Federal student loan borrowers. He cites N.J.S.A. 18A:71C-29 which reads, "Unless expressly limited to federal programs, the information exchange, wage withholding, collection procedures, repayment determinations and other provisions set forth in article 1 of this part shall apply to loan NJCLASS Loan Program." In addition, he states that HESAA has the discretion and power to restructure loans in its servicing portfolio and that there is a clear mandate to provide repayment of NJCLASS in the same manner as permitted for Federal student loans, including rehabilitation and income sensitive repayments. Mr. McMillin believes that the bond indentures grant HESAA broad discretion in servicing and collecting on NJCLASS loans and, therefore, are not an impediment to implementing such a program. He further states that "there is nothing in Federal law that precludes the fundamental components of loan rehabilitation-allowing borrowers in default to get back on an affordable payment schedule, getting the loan back to performing status, and ceasing collection activities (which would no longer be necessary)." Mr. McMillin asserts that "[c]redit reporting consequences are a separate issue. Even if NJHESAA and other state student loan lenders seek a change in Federal law to allow them to report an entirely default-free payment history, this does not preclude rehabilitation in the first place. And, crucially, NJHESAA is under no legal obligation to report any particular borrower's credit history to credit reporting agencies." He cites examples of how other states have handled rehabilitation, stating that Massachusetts delays any report of default for two years in order to allow a borrower to succeed with a modified payment schedule, and that Michigan offers a rehabilitation option to its existing borrowers that includes removal of the loan(s) from default, updating of any credit reporting of the default, and a return to repayment status.

RESPONSE: The prime benefit of rehabilitating a defaulted Federal student loan is that the default is removed from a borrower's credit report. This benefit is specifically provided for Federal student loans only, pursuant to 34 CFR 682.405 and 34 CFR 685.211(f). As the Fair Credit Reporting Act requires furnishers to report information to the consumer reporting agencies accurately, HESAA cannot provide NJCLASS borrowers with this benefit. Although HESAA and other State-based lenders are currently advocating for such a provision to be included in the reauthorization of the Higher Education Act, the exemption does not currently exist.

Mr. McMillin references Michigan's student loan program and states that Michigan offers a rehabilitation program. HESAA contacted Michigan to determine whether their program could be mirrored in New Jersey and was advised that Michigan ceased origination of new loans in 2008. Further, unlike NJCLASS, the defaulted loans that are eligible for the revised payment structure are not currently part of an existing trust estate. This means that there are fewer limitations on how they are required to service their defaulted loans. Additionally, Michigan is not deleting the default from the borrower's credit report. As Michigan's loan portfolio (which is in the process of being closed out) is a small fraction of the size of the NJCLASS portfolio, they are able to finance a revised payment structure for their defaulted borrowers with minimal funding. Funding is not currently available for NJCLASS to mirror Michigan's program.

Mr. McMillin also states that Massachusetts delays reporting defaults for two years to allow for rehabilitation. HESAA contacted Massachusetts and was advised that they do not delay reporting defaults.

HESAA will continue its advocacy efforts to amend the reporting requirements for rehabilitated loans and will continue its research into

providing additional affordable repayment options both before and after default.

COMMENT: Mr. McMillin urges HESAA to implement an income-sensitive repayment plan to avert delinquency and default. He advises that the Rhode Island Student Loan Authority (RISLA) has adopted an income-based repayment program for its state student loans originated after July 1, 2013, demonstrating that this is feasible at the state level.

RESPONSE: Unlike the Federal student loan program, NJCLASS is not subsidized by Federal tax dollars. HESAA estimates that the initial upfront cost to the State to fund a broad-based income-sensitive repayment program would range from a low of \$288 million to a high of \$1.15 billion. Going forward, HESAA estimates that the program would cost the State a minimum of \$40 million annually. As such, there is currently no funding for an across the board income-sensitive repayment program.

Mr. McMillin references Rhode Island's program. HESAA reviewed RISLA's 2016 Senior Series A Bonds Official Statement, which reveals that their income-based repayment program is limited, is subject to the availability of funds, and can be discontinued at any time without prior notice. Further, like NJCLASS, RISLA offers a family loan program and the majority of the loans have multiple obligated parties. In determining eligibility for income-based repayment, Rhode Island factors in the income and resources of all parties to the loan, including all cosigners. In addition, if any of the parties to the loans file a joint tax return with their spouse, the spouse's income is considered in determining eligibility. As such, eligibility for this program is limited. Pursuant to RISLA's 2016 Senior Series A Bonds Official Statement, there are currently only 59 borrowers who have reduced payments under this program. While an across the board income-sensitive repayment program is cost prohibitive, HESAA is researching whether the Authority can finance and offer a limited income-sensitive repayment option similar to that offered in Rhode Island.

COMMENT: Mr. McMillin states that State agencies are under no affirmative obligation to report to credit reporting agencies and HESAA should implement policies to suspend reports to credit reporting agencies in appropriate circumstances.

RESPONSE: HESAA is required to report payment information to the credit reporting agencies. Further, pursuant to the Fair Credit Reporting Act, HESAA is required to be accurate in all of our reports to the credit bureaus.

COMMENT: Mr. McMillin urges HESAA to amend N.J.A.C. 9A:10-6.17 to extend death and disability discharge protection to co-signers. In the alternative, he requests that HESAA publicize its policy to grant co-signer discharges based on a demonstration of need.

RESPONSE: HESAA currently has a policy to fund loan forgiveness outside of the trust estate. The current policy provides loan forgiveness for all parties to the loan when the student for whom the loan was borrowed dies while in school or up to six months after graduating or withdrawing from school. The policy also provides forgiveness if a student dies more than six months after graduating or withdrawing from school if it is a severe financial hardship for the remaining parties to the loan to continue making NJCLASS payments. If it is not a severe financial hardship, and families do not want to make monthly payments, they can pay a reduced amount in a lump sum. The NJCLASS portal for borrowers and cosigners provides information as to when loans are forgiven and advises families to contact HESAA for the forgiveness application.

HESAA has been reviewing solutions to finance an extension of its existing policy to all deaths or total and permanent disability of the student for whom an NJCLASS loan was borrowed and has determined that it will be possible through amendments to the existing trust estates. Amendments to N.J.A.C. 9A:10-6.17 cannot be made upon adoption; they require a new rule proposal. As such, HESAA is submitting proposed amendments to N.J.A.C. 9A:10-6.17 to extend loan forgiveness, to be published in the December 7, 2016, New Jersey Register.

COMMENT: Mr. McMillin believes that HESAA is misinterpreting N.J.A.C. 9A:10-6.6 by not requiring students to exhaust both subsidized and unsubsidized Federal loans prior to determining NJCLASS eligibility. He requests that HESAA either revise its current interpretation of the regulation or propose regulatory amendments requiring students to

maximize both subsidized and unsubsidized loans prior to applying for NJCLASS loans. He believes that this will ensure that borrowers do not unknowingly enter into NJCLASS loans which have "fewer alternatives and protections in the event of payment difficulties than those available with respect to all types of Federal student loans."

RESPONSE: Federal student loan terms and conditions are continuously changing. At times, the NJCLASS interest rate has been lower than the unsubsidized Federal loan. In order to provide families with the most advantageous loan options, HESAA does not require families to exhaust their unsubsidized loan eligibility. However, HESAA provides families with information on Federal loans. On its website, HESAA advises families that they should always apply for Federal loans first and in the NJCLASS disclosures, families are provided with the interest rates for all Federal student loans, and are again advised that they should contact both their school and the U.S. Department of Education regarding their eligibility. As such, HESAA will not be amending N.J.A.C. 9A:10-6.6.

COMMENT: Mr. McMillin, Ms. Carney-Gumpper, Ms. Meth, Ms. O'Mara, Mr. O'Mara, Ms. Timony, and Ms. Volkert all requested that HESAA withdraw its notice of proposal to amend N.J.A.C. 9A:10-6.16(b). The commenters argue that the law firms have not yet earned their fee at the time they are filing a complaint and, therefore, the contingency fee should not become due and owing at the time the account is placed with outside counsel. In addition, as the regulation provides for attorney fees up to 30 percent, Ms. Carney-Gumpper, Ms. Meth, Ms. O'Mara, Mr. O'Mara, Ms. Timony, and Ms. Volkert have requested that HESAA's retainer agreements with the law firms be provided to the borrowers, so they are advised of the actual fee.

RESPONSE: HESAA believes that it is important to ensure that borrowers are cognizant of the total amount that they will owe if they default on an NJCLASS loan. While HESAA disagrees with the commenter's interpretation of the proposed amendment, HESAA understands that the proposed language may cause confusion. As such, HESAA will not adopt the amendment at this time and will continue to review the regulation to propose language that will provide more clarity.

With regards to the request for the retainer agreements, these agreements are public records and are always available to members of the public who request them pursuant to the Open Public Records Act.

COMMENT: Ms. Carney-Gumpper, Ms. Meth, Ms. Timony, and Ms. Volkert object to HESAA's reference to the indentures of the bond. They argue that HESAA does not provide the borrowers with copies of the bonds, or reference which bonds funded their particular loans, so they are not able to research the terms of their loans.

RESPONSE: All parties to an NJCLASS loan are provided with the terms and conditions of their NJCLASS loan as part of the promissory notes that they sign combined with the Truth in Lending Act disclosures they receive as part of the application process. The terms and conditions reflect the terms that are contained in the bond indentures. For borrowers who wish to see the origin of the promissory note's terms and conditions, the bond indentures are public records and are always available to members of the public who request them pursuant to the Open Public Records Act.

#### Federal Standards Statement

A Federal standards analysis is not required since the rules readopted 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 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 being readopted with amendments for both of these programs are not subject to any Federal requirements or standards.

With respect to the NJCLASS Program rules readopted with amendments, a Federal standards analysis is not required because this State student loan program does not exceed any Federal requirements or standards for student loan programs. NJCLASS is subject to the standards for tax-exempt bonds set forth in section 144(b) of the Federal Internal Revenue Code and 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 readopted 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.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 9A:10.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks \*thus\*; deletions from proposal indicated in brackets with asterisks \*[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 offered eligible lenders participating in the Authority’s guaranty program a Blanket Certificate of Loan Guaranty that 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 (FDSLPL) borrowers who default 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.

...  
 “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 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, 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 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. § 1082(m), and its implementing regulations 34 CFR 682 et seq.

...  
 “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 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;

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

7. School and lender 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, 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, 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 was available to an eligible student attending a participating postsecondary school. A student who demonstrated financial need was eligible to have the Federal government pay the interest on the loan to the lender until repayment of the loan 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 according to the payment plan chosen by the borrower pursuant to 34 CFR 682.209.

(b) An unsubsidized Federal Stafford loan was available to an eligible student attending a participating postsecondary school. A student who did not demonstrate sufficient financial need, or who required additional funds above the Federal subsidized loan limits, 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 FFELP PLUS loan 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 according to the payment plan chosen by the borrower pursuant to 34 CFR 682.209.

(d) A FFELP Consolidation loan was available to a borrower who 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 ensured that it or a participating lender served as lender of last resort in the State of New Jersey.

## 9A:10-1.8 School participation

(a) A school shall develop procedures to ensure that student status changes are reported correctly and in a timely manner, pursuant to 34 CFR 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.

(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 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 charged all Stafford borrowers the same origination fee unless the borrower demonstrated greater financial need as further defined under 34 CFR 682.202. In contrast, lenders were required to charge the full origination fee to PLUS borrowers.

## 9A:10-1.11 Guarantee and disbursement

(a) A lender was responsible for obtaining guarantees and disbursing proceeds for Stafford, PLUS, and Consolidation loans. When the Authority received a request for processing a loan guaranty, the Authority sent the lender either a student loan Guarantee Notice/Disclosure Statement or an electronic file of guaranty processing results or both. This was the lender's guarantee and authorization to disburse the funds. Notification of guarantee 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 were considered insured at the time of lender origination. Lenders were required to report such loans to the Authority for guaranty processing, and the Authority 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 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 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 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 was made copayable to the student and the school. If the lender issued an individual Stafford loan check, the lender 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 issued an individual PLUS loan check, the lender 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 requested, the lender 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 was enrolled in a study-abroad program approved for credit by the home school and if the student requested, the lender 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 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 was only permitted to be used to cover the educational costs of attendance at the school that certified the borrower's loan eligibility. If a student transferred between schools at any time, neither the student nor the parent borrower 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 transferred from one school to another before a loan was fully disbursed, the student or parent borrower was not eligible for any remaining disbursements of that loan, and the student or parent borrower 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 Divisions of Taxation, 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

Borrowers who have defaulted on their FFELP loan obligations may enter into repayment arrangements that qualify them for reinstatement of the ability to receive benefits, including 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. The requirements for rehabilitation are set forth in 34 CFR 682.405.

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

(a) (No change.)

(b) The Authority 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. The Consolidation Loan Program is more fully explained in the Common Manual.

## 9A:10-1.17 School and lender services

As permitted under the Higher Education Act of 1965, as amended, the Authority may use funds in the Authority's operating fund for 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 information and materials to schools, loan holders, prospective loan applicants, and their parents, and training at workshops, conferences or other forums. The Authority 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 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 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 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) (No change in text.)

(c) A program review begins when the lender is selected for review and ends when the Authority accepts a satisfactory response to the review findings from the 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.

(d) Preparation for the review is as follows:

1. The Authority or CRI review team shall notify the 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 lender from data maintained by the Authority or CRI participating guaranty agencies. This data includes loan volume, borrower populations and sample, and lender search report. The reviewer may also require the 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, 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.

(e) The Authority or CRI review team shall provide the lender the opportunity to present questions or supply additional information. The 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.

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

1. The reviewer shall issue a program review report to the lender being reviewed.

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

3. When the program review ends, the reviewer shall notify the 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 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 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 applicant's income as reported 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.

...

"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 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, an applicant must be determined creditworthy by the Authority.

(b) The Authority may require that 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 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) 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) 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. 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 multiple disbursed loans, an equal percentage of these fees shall be deducted or added 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.

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

(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 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, financial hardship, 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 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) i 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)

**OFFICE OF ADMINISTRATION  
OFFICE OF CONTRACT AND POLICY  
MANAGEMENT**

**Contract Administration**

**Readoption: N.J.A.C. 10:3**

Proposed: June 20, 2016, at 48 N.J.R. 1043(a).

Adopted: October 12, 2016, by Elizabeth Connolly, Acting

Commissioner, Department of Human Services.

Filed: October 25, 2016, as R.2016 d.162, **without change.**

Authority: N.J.S.A. 30:1-12 et seq.

Effective Date: October 25, 2016.

Expiration Date: October 25, 2023.

**Summary of Public Comment and Agency Response:**

**No comments were received.**

### **Federal Standards Statement**

The readoption does not require a Federal standards analysis because no Federal standards that apply to the subject of this rulemaking are exceeded in these rules. The Federal standards that apply to these rules include, but are not limited to, the following: Title VI of the Civil Rights Act of 1964; 4 CFR 100; Section 504 of the Rehabilitation Act of 1973; 29 U.S.C. § 794; 34 CFR Part 104; Americans with Disabilities Act; Age Discrimination Act of 1975; 42 U.S.C. §§ 6101 et seq.; 45 CFR 90; Equal Employment Opportunity Act; Davis-Bacon Act; 40 U.S.C. §§ 276a through 276a-5; 29 CFR 5.5; 31 U.S.C. § 1352; and Federal Executive Orders 12549 and 12689.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:3.

(b)

**DIVISION OF MENTAL HEALTH AND ADDICTION  
SERVICES**

**Family Support Services**

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

Proposed: June 6, 2016, at 48 N.J.R. 911(a).