

HIGHER EDUCATION

OFFICE OF THE SECRETARY OF HIGHER EDUCATION

Community College Chargeback

Proposed New Rules: N.J.A.C. 9A:4

Authorized By: Rochelle Hendricks, Secretary of the Office of Higher Education.

Authority: N.J.S.A. 18A:64A-23.b and Executive Reorganization Plan No. 005-2011.

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

Proposal Number: PRN 2016-062.

Submit written comments by July 1, 2016, to:

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The agency proposal follows:

Summary

Pursuant to Reorganization Plan No. 005-2011, issued by Governor Chris Christie on June 29, 2011, all functions, powers, duties, and personnel of the Commission on Higher Education were transferred to the Secretary of Higher Education in accordance with the State Agency Transfer Act, P.L. 1971, c. 375 (N.J.S.A. 52:14D-1 et seq.). N.J.A.C. 9A:4 Community College Chargeback rules expired March 13, 2016, and the Secretary of Higher Education is proposing the expired rules as new rules to implement N.J.S.A. 18A:64A-23. Therefore, under

State law, the Secretary of Higher Education is responsible for establishing the process under N.J.S.A. 18A:64A-23 that enables nonresidents of a county to attend that county's community college at the county resident tuition rate. The law describes the process for obtaining approval for such students to so enroll and requires the "sending" county to reimburse the "receiving" county for its share of the college's cost of educating these students. This reimbursement, or "chargeback," is computed on a per full-time-equated student basis and multiplied by the cost ratios as determined by the State Treasurer. The proposed new rules also provide clarification about eligibility to attend an out-of-county college on a chargeback basis and specify certain procedures.

The expired rules proposed herein as new rules are discussed below, without change, except for the amendment discussed to N.J.A.C. 9A:4-1.3(e).

Proposed new N.J.A.C. 9A:4-1.1 cites the statutory authorization for the proposed rules.

Proposed new N.J.A.C. 9A:4-1.2 defines the terms used in the rule text. The definition of "offer a particular course or program" specifies various means by which a community college may be considered to be offering instruction, thereby obviating the need for a county resident to pursue studies elsewhere on a chargeback basis.

Proposed new N.J.A.C. 9A:4-1.3 details the basic conditions under which nonresident students may attend another county's community college on a chargeback basis. The section also addresses various special circumstances. For example, proposed new N.J.A.C. 9A:4-1.3(c) clarifies that all coursework in a chargeback student's program at the receiving college is eligible for chargeback, even if the home county offers some of the same courses. Proposed new N.J.A.C. 9A:4-1.3(d) reiterates that community colleges may contract with out-of-county colleges as a means of providing instruction but limits the distance a student would have to

travel. If the contract institution is beyond a 30-mile radius from the student's place of residence, enrollment on a chargeback basis at a closer community college is permitted. Proposed new N.J.A.C. 9A:4-1.3(e), (f), and (g) address how the chargeback rules will be applied to students required to enroll in remedial courses and eliminates the reference to students enrolled in programs at regional centers funded through the Special Needs Grant Program, as that grant program no longer exists.

Proposed new N.J.A.C. 9A:4-1.4 describes the procedures to be followed, including the requirement at N.J.A.C. 9A:4-1.4(b), that a county's chief financial officer give the reason for refusing a student's application for chargeback. Proposed new N.J.A.C. 9A:4-1.4(e) requires a community college billing the home county of a chargeback student to identify the courses or programs in which the student is enrolled, in order to limit instances of inappropriate chargeback when students change majors.

This chapter affects every resident of New Jersey both student and non-student alike. Students are able to pursue their desired course of study at an affordable rate regardless of the specific offerings at their home county college. Additionally, this chapter ensures that non-student county taxpayers do not subsidize the education of out-of-county students.

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

Social Impact

The expired rules proposed herein as new rules help ensure broad access to affordable higher education at the associate degree level by providing a means for residents of any New Jersey county to pursue desired courses or programs of study that are not available at their home

county college. The chargeback provision helps preserve the commitment of the counties to county residents.

Economic Impact

The expired rules proposed herein as new rules help maintain the affordability of a community college education by ensuring that county residents may pursue studies not available at their home county college without paying a higher, nonresident tuition rate at another community college that offers the desired coursework. The chargeback mechanism helps ensure that county taxpayers do not subsidize the education of out-of-county students.

Federal Standards Statement

The expired rules proposed herein as new rules do not require a Federal standards analysis under Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 et seq., because the practice of community college chargeback is not subject to any Federal requirement or standards.

Jobs Impact

The expired rules proposed herein as new rules will not result in the generation or loss of any jobs.

Agriculture Industry impact

The expired rules proposed herein as new rules will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the expired rules proposed herein as new rules apply only to New Jersey's community colleges, which all employ more than 100 full-time employees and are, thus, not small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The expired rules proposed herein as new rules will have no effect on the affordability of housing because these rules govern community college chargeback, as described in the Summary above, and there is an extreme unlikelihood that the rules will evoke a change in the average cost associated with housing.

Smart Growth Development Impact Analysis

The Secretary of Higher Education believes that there is an extreme unlikelihood that the expired rules proposed herein as new 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 and the rules will have an insignificant impact on smart growth because the rules govern community college charge back, as described in the Summary above.

Full text of the expired rules proposed herein as new rules may be found in the New Jersey Administrative Code at N.J.A.C. 9A:4.

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

SUBCHAPTER 1. GENERAL PROVISIONS

9A:4-1.3 Eligibility

(a)-(d) (No change.)

[(e) Students accepted into programs at regional centers funded through the Special Needs Grant Program and located at a community college shall be considered eligible for chargeback and may register for and attend on a chargeback basis all courses necessary to satisfy the program of study approved by the director of the regional center in which the student is enrolled. Students

enrolled in such centers shall be permitted to complete any required remedial programs at the out-of-county college on a chargeback basis.]

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