

HIGHER EDUCATION

SECRETARY OF HIGHER EDUCATION

Educational Opportunity Fund: Administrative Procedures and Policies

Proposed Readoption with Amendments: N.J.A.C. 9A:11

Authorized By: Educational Opportunity Fund Board of Directors, Audrey Bennerson, Executive Director.

Authority: N.J.S.A. 18A:71-28 et seq., and 18A:71-33 through 36.

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

Proposal Number: PRN 2016-091.

Submit comments by August 19, 2016, to:

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The agency proposal follows:

Summary

The Educational Opportunity Fund (EOF) program provides students from educationally disadvantaged backgrounds with financial aid and other support services while attending participating New Jersey colleges and universities.

Pursuant to the 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, pursuant to the State Agency Transfer Act, P.L. 1971, c. 375 (N.J.S.A. 52:14D-1 et seq.). Therefore, under State law, the EOF program is a collaborative effort under the general supervision of the Secretary of Higher Education, while the EOF Board of Directors (EOF Board) administers the program and the participating institutions directly serve students.

Working with participating institutions, the EOF Board maintains a Statewide system to identify and recruit potential college students from backgrounds of historical poverty, develops eligibility criteria for EOF financial assistance based on students' income and their potential for success in college, establishes procedures to determine the amount of the academic year grants according to the total financial need of each student, and advises on the development, organization, and coordination of a wide range of educational support and enrichment activities.

As this notice of proposed readoption was submitted to the Office of Administrative Law prior to the expiration date of the chapter, the chapter expiration date is extended 180 days to November 19, 2016 pursuant to N.J.S.A. 52:14B-5.1.c(2). This notice of proposal is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5, as the EOF Board of Directors has provided a 60-day comment period on this notice of proposal. The rules are organized into eight subchapters and amendments are proposed for readoption in six of the eight subchapters, as follows:

Subchapter 1 contains the general authority under which the EOF program operates, definitions, the mission statement, and scope of the chapter. At N.J.A.C. 9A:11-1.1(a) and (b), the words "Commission on" are replaced with "Office of the Secretary" to describe the transfer

of authority to the Office of the Secretary of Higher Education, pursuant to the Reorganization Plan No. 005-2011.

At N.J.A.C. 9A:11-1.2, it is proposed that the words “Summer Program Article IV undergraduate” be added to the definition of “allocation” because some programs receive funding from this source as part of their annual allocation of EOF funding. The following definitions are proposed for deletion: “Commission,” “Commission/EOF,” and “District Factor Group (DFG)” as they no longer appear in this chapter. A definition for “EOF Central Office” is proposed for inclusion because it is the reference commonly used to describe the staff members of the New Jersey Office of the Secretary of Higher Education responsible for the administration of the EOF program. The definition of “New Jersey College Bound Grant Program” is proposed for deletion as this program is now combined with the NJ GEAR UP State project. In the definitions for the following terms: “master contract,” “NJ GEAR UP State project,” “NJGEAR UP/NJ College Bound grant program support services only (NJGEARUP/College Bound/SSO) student,” and “participating institution” the words “Commission on” is replaced with “Office of the Secretary of Higher Education, or its successor office” to reflect the transfer of authority for higher education to the Secretary. An additional amendment is proposed to “master contractor” that specifies that the institution is the contractor. An additional amendment to “NJ GEAR UP State project” to add the words “New Jersey College Bound Grant Program.” An additional amendment is also proposed to “NJ GEAR UP/NJ College Bound grant program support services only (NJGEARUP/NJ College Bound/SSO) student” that includes language indicating these students are eligible to receive EOF Article IV student support services. A definition for the “Office of the Secretary of Higher Education” is also proposed for addition. The definition of “participating institution” is proposed for additional amendment to remove the word “Board” and

replace it with the “Office of the Secretary of Higher Education” to accurately reflect the parties entering into the contract.

Subchapter 2 outlines the awarding of Article III undergraduate EOF grants. At N.J.A.C. 9A:11-2.2(b)1, Student eligibility, it is proposed that the words “DFG A or B,” used to describe a school district, be replaced with the phrase “where 40 percent or more of the enrolled students meet the eligibility criteria for the free/reduced price lunch program.” At N.J.A.C. 9A:11-2.2(b)5, the phrase “Supplemental Nutrition Assistance Program (SNAP) formerly” is proposed to be added to describe the words food stamps. Amendments are proposed to N.J.A.C. 9A:11-2.3(a)1 and 2 to replace the academic year 2016-2017 EOF Income Eligibility Scale and gross income by household size (for household sizes one through six) with the 2017-2018 academic year scale.

Several amendments are proposed at N.J.A.C. 9A:11-2.3(e)1 through 5, to align the EOF financial eligibility criteria for an initial Article III student grant to the revised New Jersey Foster Care Scholarship program requirements. First, at N.J.A.C. 9A:11-2.3(e), the age requirement for applicants in a paid placement arranged through the Division of Child Protection and Permanency within the Department of Children and Families is proposed to increase from 22 to 23 years of age. Throughout N.J.A.C. 9A:11-2.3(e), the term “Division of Youth and Family Services” is proposed for replacement with the “Division of Child Protection and Permanency within the Department of Children and Families.” At N.J.A.C. 9A:11-2.3(e)4, the phrase “who is in a subsidized adoption at the time of application” is proposed for deletion. At N.J.A.C. 9A:11-2.3(e)5, language is proposed for deletion that provided eligibility for individuals adopted after the age of 16; the deleted text is replace with language that will provide eligibility for an

individual “who left an out-of-home placement to enter a Kinship Legal Guardianship (KLG) following the youth’s 16th birthday.”

At N.J.A.C. 9A:11-2.3(h), the letter “s” in the word admits in the last sentence is proposed for deletion, and to provide further clarification, the word “students” is proposed after the word admit as an addition to the sentence.

At N.J.A.C. 9A:11-2.5(e), “student assistance shall comply” is proposed for replacement with “Article III academic year student grants shall also comply” to emphasize that students must comply with the Tuition Aid Grant and Garden State Scholarship programs’ rules at N.J.A.C. 9A:9-2.7 governing verification of family financial data.

At N.J.A.C. 9A:11-2.8(i), the words “EOF” and “a” are proposed to clarify that an EOF student’s enrollment in a course during the summer session does not count in determining the total number of semesters of EOF payments.

At N.J.A.C. 9A:11-2.9, Part-time students, new subsection (f) is proposed, which will codify the disbursement of a semester maximum full-time EOF academic year Article III grant award to EOF renewal students enrolled in their last semester of study before graduation who can meet the requirements for their degree by registering as part-time, as long as the student’s financial aid award package consisting of the New Jersey Tuition Aid Grant (TAG), scholarships, and other financial assistance does not exceed a student’s cost of attendance.

N.J.A.C. 9A:11-2.10(a) is proposed for amendment to clarify that these non-funded students may continue to receive Article IV program support services, as determined by the institutional EOF administrator.

At N.J.A.C. 9A:11-12(b), “an EOF transfer” student is proposed for inclusion to emphasize that the basic student eligibility criteria is presumed to have been met for EOF

transfer students. New N.J.A.C. 9A:11-12.12(c) is proposed to state that “the Article III undergraduate student grant students received at their initial institution of enrollment does not transfer with the students to another participating institution in New Jersey.”

At N.J.A.C. 9A:11-2.13(a), an amendment is proposed to replace “maintaining academic progress” with “meeting minimum standards for academic progress,” and also proposes the addition of the word “satisfactory” to emphasize that it is an institution’s established satisfactory academic progress policy. At N.J.A.C. 9A:11-2.13(b), the words “rules and” are proposed as additions to the Title IV Higher Education Act of 1965, which is the basis for institutional academic progress policies and to delete the Federal citations. At N.J.A.C. 9A:11-2.13(e), “Commission/EOF” is proposed to be replaced with “EOF Central Office.”

Subchapter 3 addresses the criteria for determining financial eligibility for graduate Article III student grants. N.J.A.C. 9A:11-3.3(b) is proposed for amendment to change how the institution verifies annual gross income and assets of graduate EOF grant recipients from “through the use of [IRS] documents” to “pursuant to N.J.A.C. 9A:9-2...”

Subchapter 4 delineates EOF program support services. At N.J.A.C. 9A:11-4.2(a), an amendment is proposed to delete the phrase “how program services are structured to promote student retention and graduation” and to replace the phrase with new language setting forth the program mission statement and the program goals and objectives. At N.J.A.C. 9A:11-4.4(e)11 “Commission/EOF” is proposed for replacement with “EOF Central Office” and at subsection (h), “affects the program” is clarified as “affects the EOF program.”

At N.J.A.C. 9A:11-4.5, Recruitment and admission, several amendments are proposed in subsection (b) to comply with N.J.S.A. 52:13H-2, the State Mandate/State Pay Law. The language requiring public institutions to enroll at least 10 percent of its entering fall full-time

first-time freshman through the EOF program, and to encourage independent institutions to meet this goal is proposed for replacement. The proposed new language requires “institutions to establish an annual goal within its program goals and objectives as set forth in N.J.A.C. 9A:11-4.2(a) to enroll a percentage” of its entering fall full-time, “first-time undergraduates” through the EOF program. The proposed new language further states “The EOF fall full-time first-time undergraduate goal shall be based on the institutions’ resources from all sources and the current demographic profile of its full-time undergraduate students. Participating institutions are encouraged to establish a goal of at least 10 percent. Each institution shall declare their EOF fall full-time first-time undergraduate goal in their annual fiscal year EOF contract.” Additionally, all references to “freshmen” are replaced with the phrase “full-time first-time undergraduates” and the word “goal” is added at the end of the subsection to permit institutions to include students who are counseled at entrance to pursue a part-time course load and receive Article III part-time grant funding to be calculated in the institutions fall first-time full-time undergraduate percentage goal. At N.J.A.C. 9A:11-4.5(c) the word “Commission/EOF” is proposed for replacement with “EOF Central Office.”

At N.J.A.C. 9A:11-4.7(c), language is proposed to clarify that it is the responsibility of the institution receiving EOF transfer students to demonstrate the ability to provide the eligible EOF program support components outlined in N.J.A.C. 9A:11-4.8.

At N.J.A.C. 9A:11-4.8(b)4, amendments are proposed to clarify the EOF advisement/counseling process. The amended language includes that advisement/counseling is designed to address student learning and development. At N.J.A.C. 9A:11-4.8(b)7, “four-year institutions” is replaced with “senior institutions” to better describe the participating institutions that award baccalaureate degrees.

Subchapter 5 governs the development and maintenance of the summer program and two changes are proposed in this subchapter. At N.J.A.C. 9A:11-5.4(b), language is proposed that emphasizes that EOF students are permitted to enroll without participation in a summer program, so long as the institution provides alternative activities for such students during the academic year consistent with the goals of N.J.A.C. 9A:11-5.1 and the requirements of N.J.A.C. 9A:11-5.3. At N.J.A.C. 9A:11-5.6(b), “Commission/EOF” is proposed for replacement with “EOF Central Office.”

Subchapter 6 governs the operational procedures for academic year and summer Article III student grants and Article IV program support services funds. At N.J.A.C. 9A:11-6.1(a) and (e), “EOF Article III” is proposed for amendment to include “and when applicable Article IV” to reflect that some programs receive funding from this source for the operation of their summer program. At N.J.A.C. 9A:11-6.1(e), “allocation” is revised to “allocations” to reflect that it is more than one allocation. At N.J.A.C. 9A:11-6.1(d), the language regarding the description of program goals is proposed for replacement with language that references the mandatory goals delineated in N.J.A.C. 9A:11-4.2(a)2.

At N.J.A.C. 9A:11-6.2(a), “Commission on Higher Education” is proposed for replacement with “Office of the Secretary of Higher Education.” At N.J.A.C. 9A:11-6.2(b), “Commission/EOF” is proposed for replacement with “EOF Central Office.” At N.J.A.C. 9A:11-6.5(a), the reference to N.J.A.C. 9A:8-5, Selective Service Compliance, is proposed for amendment to delete the New Jersey Administrative Code reference and add the statutory reference to the Military and Selective Service Act, N.J.S.A. 18A:71B-6. At N.J.A.C. 9A:11-6.6(c) and (e), “Commission/EOF” is proposed for replacement with “EOF Central Office.” At

N.J.A.C. 9A:11-6.9(c)1vi, “indirect expenses” is replaced with “indirect/overhead expenses” to further define indirect expenses.

At N.J.A.C. 9A:11-6.14(a), Recordkeeping and data collection, amendments are proposed that will require participating institutions to use electronic recordkeeping to improve EOF programs access to all relevant institutional data available on EOF students. The statement that each campus EOF program “should” have access to state-of-the-art hardware is changed to be mandatory, rather than discretionary.

At N.J.A.C. 9A:11-6.15(c)1, a cross-reference to N.J.A.C. 9A:11-4.2(a)2 is proposed for clarity of where the institutional goals for the EOF program is located. At N.J.A.C. 9A:11-6.15(c)2iii, language is proposed for deletion that specifically references enrollment through the EOF program of at least 10 percent of the institution’s fall full-time first-time freshman and is replaced with EOF full-time first-time undergraduate students as a percentage of the institution’s entering fall cohort. N.J.A.C. 9A:15(d), “Commission/EOF” is proposed for replacement with “EOF Central Office.”

At N.J.A.C. 9A:11-6.16(a), “Commission/EOF” is proposed for replacement with “EOF Central Office.” At N.J.A.C. 9A:11-6.17, Fiscal audit requirements, it is proposed that all references to the “Commission” be replaced with “the Secretary of Higher Education.”

Social Impact

The rules proposed for readoption with amendments to the Educational Opportunity Fund’s Administrative Policies and Procedures ensure that the State of New Jersey’s only program that is legislatively and historically intended to provide access to higher education to highly motivated, low-income, first generation college students, and comprehensive student

support services designed to assist them in earning their degrees, continues to meet New Jersey's high standards of quality. EOF students come from every county in New Jersey. They have generally lived and attended high school in neighborhoods characterized by depressed economic conditions, substandard educational services, and the social and financial inequities associated with poverty. Approximately 60 percent of the total EOF enrollment comes from the State's most distressed municipalities (communities that have been designated "labor surplus areas" by the New Jersey Department of Labor and Workforce Development and the U.S. Bureau of Labor Statistics). The vast majority of EOF students spend their elementary and secondary school years in public school districts that by all objective measures fail to provide the level of educational preparation required for success in the more demanding curricula and challenging majors of our colleges and universities. The proposed amendments clarify standards to make compliance more effective and to reduce administrative burdens.

Economic Impact

During the 2014-2015 academic year, the EOF program served 13,392 undergraduate and graduate students enrolled in 59 programs at 41 New Jersey colleges and universities. Approximately \$16.9 million of the fiscal year 2015 appropriation of \$40.8 million was allotted for EOF Article III academic year undergraduate and graduate student financial aid grants. The balance was allotted to provide participating institutions with the resources to manage their Article IV-funded EOF program student support and enrichment services. EOF Article IV funds must be matched dollar for dollar by the participating institutions. The rules proposed for readoption with amendments to the Educational Opportunity Fund's Administrative Policies and Procedures will have no direct impact on the total number of students awarded grants or the total cost of the program.

Federal Standards Statement

The rules proposed for readoption with amendments to the Educational Opportunity Fund's Administrative Policies and Procedures do not require a Federal standards analysis under Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 et seq., because EOF was established by New Jersey legislation, is wholly supported by State appropriations, and is not subject to any Federal requirements or standards.

Jobs Impact

The rules proposed for readoption with amendments will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments 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 do not impose requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments pertain strictly to public and publicly funded independent colleges and universities in New Jersey, none of which qualify as a small business as they employ more than 100 full-time employees.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have an no impact on the affordability of housing because the rules govern the administrative procedures and policies of

the Educational Opportunity Fund (EOF) program, and there is an extreme unlikelihood that the amendments will evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The Office of the Secretary of Higher Education staff believes there is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules govern the operation of the educational Opportunity Fund program. The rules would also have an insignificant impact on smart growth.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 9A:11.

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

SUBCHAPTER 1. AUTHORITY, MISSION, AND SCOPE

9A:11-1.1 Authority

- (a) Under the general supervision of the [Commission on] **Office of the Secretary of Higher Education**, the Educational Opportunity Fund Board of Directors creates and adopts such rules deemed necessary for the proper administration of the Educational Opportunity Fund (EOF), as set forth in N.J.S.A. 18A:71-31. The Board administers all Article III, Article IV, C. Clyde Ferguson Law Scholarship, and Martin Luther King Physician-Dentist Scholarship funds appropriated by the State Legislature and other public or private sources and is an agency of communication with departments and agencies of the U.S. government on the availability of grants or loans to New Jersey for purposes related or similar to those set forth in N.J.S.A. 18A:71-28 through 40 and 18A:72J-1 et seq. Through the [Commission on] **Office of the Secretary of Higher Education**, the Board of Directors is responsible and reports periodically in writing to the Governor and the Legislature on the performance of its duties in accordance with the law.
- (b) Pursuant to N.J.S.A. 18A:71-28 through 40 and 18A:72J-1 et seq., the Board of Directors shall identify, recruit, and provide financial assistance to needy students who are residents of New Jersey in order that they may attend institutions of higher education. The Board is authorized to determine and promulgate standards of eligibility and award undergraduate and graduate “opportunity grants,” C. Clyde Ferguson Law Scholarships, and Martin Luther King Physician-Dentist Scholarships to students attending institutions of collegiate grade that are licensed by the New Jersey [Commission on] **Office of the Secretary of Higher Education** and accredited by an accrediting body recognized by the U.S. Secretary of Education. The Board shall also develop, establish, and maintain programs of remedial and supplementary education

for eligible students to be administered either directly or through cooperative ventures with any or all of these institutions.

9A:11-1.2 Definitions

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

“Allocation” means the distribution of the annual appropriation to support campus programs and student grants approved by the EOF Board of Directors in the following funding categories: Summer Program Article III undergraduate, Academic Year Article III undergraduate, Academic Year Article III graduate, **Summer Program Article IV undergraduate**, Academic Year Article IV, any special project funding during the summer or academic year from either Article III or Article IV, **and** Ferguson and King Scholarships.

...

[“Commission” means the New Jersey Commission on Higher Education, which is the State-level planning and coordinating agency for higher education in New Jersey.

“Commission/EOF” means the New Jersey Educational Opportunity Fund Program’s central office, located within the New Jersey Commission on Higher Education.

“District Factor Group (DFG)” means an indicator of the socioeconomic status of citizens in each New Jersey school district. The New Jersey Department of Education uses this measure for the comparative reporting of test results from New Jersey’s Statewide testing programs. The indicators use demographic variables from the most recent U.S. census data, and school districts are ranked and divided into alphabetical groups. The groups range from “A” (lowest socioeconomic districts) to “J” (highest socioeconomic districts).]

...

“EOF Central Office” means the staff persons or members of the New Jersey Office of the Secretary of Higher Education, or its successor office responsible for the administration of the Educational Opportunity Fund (EOF).

...

“Master contract” means an annual agreement entered between the [Commission on] **Office of the Secretary of Higher Education, or its successor office**, and individual New Jersey institutions of higher education specifying the contractual terms and conditions under which the [Commission] **Office of the Secretary** shall provide funds specified under the applicable project contract to the **institution referred to as the “contractor.”**

...

[“New Jersey College Bound Grant Program” means a precollege educational enrichment program designed to help ensure completion of secondary school; to increase college admission, retention, and graduation rates of urban youth; and to encourage the successful pursuit of postsecondary education in the science, mathematics, or technology that was funded by the New Jersey Commission on Higher Education.]

“NJ GEAR UP [state] **State project/New Jersey College Bound Grant Program**” means any Federally funded New Jersey [state] **State** project administered by the [Commission] **Office of the Secretary of Higher Education, or its successor office**, under the Gaining Early Awareness and Readiness for Undergraduate Programs.

“NJ GEAR UP/NJ College Bound grant program support-services-only (NJGEARUP/NJ College Bound/SSO) student” refers to an NJ GEAR UP [state] **State** project and/or NJ College Bound grant program graduate enrolled in college through the Fund who is unable to

demonstrate financial eligibility for an initial Article III student grant, **but is still eligible to receive EOF Article IV student support services.**

...

“Office of the Secretary of Higher Education” means the State-level planning and coordinating agency for higher education, or its successor office.

...

“Participating institution” means a New Jersey institution of higher education that is licensed by the New Jersey [Commission on] **Office of the Secretary of Higher Education, or its successor office**, and accredited by an accrediting body recognized by the U.S. Secretary of Education and which has entered into a contractual relationship with the [Board] **Office of the Secretary of Higher Education** to provide an EOF undergraduate, graduate, and/or summer program for eligible students.

...

SUBCHAPTER 2. UNDERGRADUATE EOF ACADEMIC AND FINANCIAL ELIGIBILITY

9A:11-2.2 Student eligibility

(a) (No change.)

(b) To be eligible for an undergraduate EOF grant, a student must demonstrate a history of poverty, which generally includes documented, long-term economic hardship of the family, such as little or no accumulation of assets and the inability to provide more than the basic needs of family members, as evidenced by at least one of the following:

1. Having attended or graduated from a [DFG A or B] school district **where 40 percent or more of the enrolled students meet the eligibility criteria for the free/reduced price lunch program;**

2. - 4. (No change.)

5. Being a first-generation college student who is, or whose family is, eligible for government assistance and/or educational programs targeted toward low-income and disadvantaged populations (TRIO programs, free and reduced breakfast/lunch programs, **Supplemental Nutrition Assistance Program (SNAP), formerly food stamps**); or

6. (No change.)

(c) – (e) (No change.)

(f) Students who have successfully completed a NJ GEAR UP [state] **State project/New Jersey College Bound Grant Program** and who have been admitted to the institution under its regular standards of admission (where applicable) or who do not demonstrate need as specified in (e)² above shall also be eligible to participate in the EOF program, assuming they meet all other eligibility criteria in this subchapter, except those in (e) above.

(g) – (h) (No change.)

9A:11-2.3 Financial eligibility for initial Article III student grants

(a) The EOF Income Eligibility Scale is based on 200 percent of the annual Federal poverty guideline (that is, doubled) as published annually by the United States Department of Health and Human Services in the Federal Register. This benchmark was established to reflect an eligible target population consistent with the intent of the original legislation. The EOF Executive Director shall inform institutions of annual adjustments to the EOF Income Eligibility Scale each

summer, and the gross income limits set forth in this subsection shall be updated through a notice of administrative changes published in the New Jersey Register.

1. Except provided in (d), (e), (g), (h), and (i) below, dependent and independent students are financially eligible for an initial Article III student grant if their gross household income does not exceed the applicable amounts set forth in the EOF Income Eligibility Scale, as follows.

Academic Year [2016-2017] 2017-2018	
Applicants with a <u>Household size of</u>	Gross Income <u>Not to Exceed</u>
1	\$ [23,540] 23,760
2	[31,860] 32,040
3	[40,180] 40,320
4	[48,500] 48,600
5	[56,820] 56,880
6	[65,140] 65,160
7 – 8 (No change.)	

2. For each additional member of the household, an allowance of \$8,320 shall be added to this amount in order to determine EOF eligibility for the [2016-2017] **2017-2018** academic year.

3. (No change.)

(b) – (d) (No change.)

(e) An applicant who falls between the ages of 16 to [22] **23**, who is or was in a New Jersey [Division of Youth and Family Services] paid placement, **arranged through the Division of Child Protection and Permanency within the Department of Children and Families**, and

who meets one of the criteria listed below, automatically satisfies the financial eligibility criteria stated in (a) above:

1. An individual who has been in the care and custody of the New Jersey Division of [Youth and Family Services] **Child Protection and Permanency within the Department of Children and Families**, in an out of home placement[,], for a [period of] **cumulative** nine months or more following the individual's [sixteenth] **16th** birthday;

2. An individual who has been in the care and custody of the New Jersey Division of [Youth and Family Services] **Child Protection and Permanency within the Department of Children and Families** after the age of 14 for a cumulative 18 months;

3. An individual who is or has been residing in **an independent living arrangement or** [a] transitional living program [for youth or in supportive housing for three months or more and the facility or program receives] **established, operated, or approved for** payment by the **New Jersey Division of Child Protection and Permanency within the Department of Children and Families**, pursuant to the New Jersey Homeless Youth Act or the Federal "Runaway and Homeless Youth Act" Title II of Pub. L. 93-415 (42 U.S.C. §§ 5701 et seq.)(1);

4. An individual adopted through the New Jersey Division of [Youth and Family Services] **Child Protection and Permanency within the Department of Children and Families** after the age of 12 [and who is in a subsidized adoption at the time of application]; or

5. An individual [adopted through the] **in a** New Jersey Division of [Youth and Family Services after the age of 16] **Child Protection and Permanency within the Department of Children and Families out-of-home placement who left to enter a kinship legal guardianship (KLG) following the youth's 16th birthday.**

(f) – (g) (No change.)

(h) Where there is evidence that strict adherence to the maximum income eligibility cut-off will not serve the purpose of the Fund, the campus EOF administrator/director has the discretion to admit, up to a maximum of 10 percent of the annual EOF freshman class, students with family incomes as high as, but no more than, 281 percent of the Federal poverty guidelines as published annually by the Federal government. These discretionary admit[s] **students**, however, shall also meet all eligibility provisions of N.J.A.C. 9A:11-2.2.

(i)–(k) (No change.)

9A:11-2.5 Verification of financial eligibility

(a)–(d) (No change.)

(e) Students found eligible to receive **Article III academic year** student [assistance] **grants** shall **also** comply with [the] N.J.A.C. 9A:9-2.7, which is the Tuition Aid Grant and Garden State Scholarship programs' rules governing verification of family financial data.

9A:11-2.8 Duration of student eligibility

(a)–(h) (No change.)

(i) Summer sessions shall not be counted in determining the total number of semesters of **EOF** payment a student has received.

9A:11-2.9 Part-time students

(a)–(e) (No change.)

(f) Renewal students enrolled in their last semester of study before graduation who can meet the requirements for their degree by registering as part-time are eligible to receive a

semester maximum full-time EOF academic year Article III grant award, as long as the student's financial aid award package consisting of the New Jersey Tuition Aid Grant (TAG), scholarships, and other financial assistance does not exceed a student's cost of attendance.

9A:11-2.10 Nonfunded students

(a) Students who receive an initial Article III undergraduate grant but because of a change in income or enrollment status no longer demonstrate need for Article III funds shall be termed nonfunded **and may receive Article IV program support services, as determined by the institutional EOF administrator/director.**

(b)– (e) (No change.)

9A:11-2.12 Transfer of eligible students to another participating institution

(a) (No change.)

(b) Once deemed initially eligible for an Article III undergraduate grant at the sending institution, [a] **an EOF transfer** student is presumed to have met the historical poverty eligibility criteria (as outlined in N.J.A.C. 9A:11-2.2(b) and the financial eligibility criteria [as] (as outlined in N.J.A.C. 9A:11-2.3) for a renewal EOF grant at the receiving institution.

(c) The Article III undergraduate student grant a student received at his or her initial institution of enrollment does not transfer with the student to another participating institution in New Jersey.

[(c)] **(d)** (No change in text.)

9A:11-2.13 Academic progress

(a) Before payment of an Article III undergraduate student grant may be made to an eligible continuing student, the institution shall have satisfactory evidence that the student is [maintaining] **meeting minimum standards for** academic progress and class standing according to the institution's established policy for **satisfactory** academic progress of EOF students, as outlined in (b) below.

(b) For purposes of determining continued eligibility for an Article III undergraduate student grant, the Board shall recognize the same standards of academic performance and progress that an institution adopts to determine eligibility for Federal student financial aid programs under Title IV of the Higher Education Act of 1965, as amended, and its implementing **rules and** regulations, [20 U.S.C. §1091(d) and 34 C.F.R. 668.84 (“satisfactory progress”),] as well as the following provisions.

1.-3. (No change.)

(c) – (d) (No change.)

(e) The institution shall share with the [Commission/EOF] **EOF Central Office** any material findings or audit exceptions related to the determination of academic progress at any time that they are revealed in the course of an audit or program review.

(f) (No change.)

SUBCHAPTER 3. GRADUATE EOF FINANCIAL ELIGIBILITY

9A:11-3.3 Verification of financial eligibility

(a) (No change.)

(b) The annual gross income and assets of all graduate grant recipients shall be verified by the institution [through the use of Internal Revenue Service documents] **pursuant to N.J.A.C. 9A:9-2.7, which are the Tuition Aid Grant and Garden State Scholarship programs' rules governing verification of family financial data.**

(c) (No change.)

SUBCHAPTER 4. EOF PROGRAM SUPPORT SERVICES

9A:11-4.2 Institutional eligibility

(a) Each undergraduate institution in New Jersey that enrolls students who receive Article III grants under the EOF program shall submit an annual plan that outlines [how program services are structured to promote student retention and graduation.] **the following:**

1. Program mission statement:

i. The overall mission of the campus-based EOF program;

ii. How the program's mission supports the overall mission of the participating institution; and

iii. How the mission relates to the New Jersey Educational Opportunity Fund Statewide mission statement under N.J.A.C. 9A:11-1.3; and

2. Program goals and objectives:

i. Recruitment and admissions: identification of the program's target population;

ii. Summer program goals for incoming freshmen and renewal students;

iii. Assessment of students' developmental skills needs and learning styles;

iv. Plans to address student learning and development;

v. Plans to address student retention; and

vi. Plans to address student graduation and transfer to senior institutions (if applicable).

(b) (No change.)

9A:11-4.4 Institutional administration

(a) – (d) (No change.)

(e) Each participating institution shall provide for the campus EOF administrator/director to have sufficient authority for the following:

1. - 10 (No change.)

11. Supervision and submission of all required materials to the [Commission/EOF] **EOF Central Office**; and

12. (No change.)

(f)–(i) (No change.)

9A:11-4.5 Recruitment and admissions

(a) (No change.)

(b) Each participating [public] institution shall [enroll at least 10 percent] **establish an annual goal within its program goals and objectives as set forth in N.J.A.C. 9A:11-4.2(a)2 to enroll a percentage** of its entering fall full-time [freshmen] **first-time undergraduates** through the EOF program[; independent institutions are encouraged to meet this goal]. **The EOF fall full-time first-time undergraduate goal shall be based on the institutions' resources from all sources and the current demographic profile of its full-time undergraduate students.**

Participating institutions are encouraged to establish a goal of at least 10 percent. Each institution shall declare their EOF fall full-time first-time undergraduate goal in their annual fiscal year EOF contract. The percentage shall be calculated from the number of EOF [freshmen] **full-time first-time undergraduates** in a given fall semester and the number of full-time first-time New Jersey resident[s] **undergraduates** in the previous fall's [freshmen] **full-time first-time undergraduate** class. Students who are counseled at entrance to pursue a part-time course load and receive an Article III part-time student grant shall be counted in calculating an institution's EOF fall [freshman] **full-time first-time undergraduate** percentage goal.

(c) Each participating institution shall annually develop and implement a plan to recruit, identify, and select potential students for the EOF program. This process/procedure shall be subject to audit by [Commission/EOF] **EOF Central Office** staff at any time. The plan shall focus primarily on identifying a significant pool of potential students who meet the student eligibility criteria in N.J.A.C. 9A:11-2.2 and the financial eligibility criteria defined in N.J.A.C. 9A:11-2.3. The plan also shall establish a priority selection process that includes a waiting list, as well as appeal procedures for EOF freshman, transfer, and readmit applicants.

(d) (No change.)

9A:11-4.7 Student transfer procedure

(a)–(b) (No change.)

(c) The EOF program **receiving an EOF transfer student** shall be able to demonstrate delivery of services as outlined in N.J.A.C. 9A:11-4.8 to students who are eligible for funding consideration under N.J.A.C. 9A:11-2.12, Transfer of eligible students to another participating institution.

9A:11-4.8 Eligible program support components

(a) (No change.)

(b) Each participating institution shall structure activities that provide educational enrichment for EOF students, improve their academic performance, promote their retention and progress toward graduation, and acknowledge their academic success and leadership development within the period of program eligibility and the institution's academic standards. These activities shall include, but are not limited to:

1.-3. (No change.)

4. EOF advisement/counseling: Each [institution] **campus program** shall provide advisement/counseling [programs] designed to [place] **address student learning and development. This shall include helping** students **explore their educational, career, and personal goals and assisting them with enrolling** in [the] appropriate courses for their desired degree program [and to help them realize their educational, career, and personal goals];

5. -6. (No change.)

7. Preparation for community college EOF students to transfer to [four-year] **senior** institutions: Each institution shall develop initiatives to promote EOF student transfer from county to senior institutions;

8. – 10. (No change.)

(c) (No change.)

SUBCHAPTER 5. SUMMER PROGRAM

9A:11-5.4 Student eligibility

(a) (No change.)

(b) Based upon an assessment of students' preparation and readiness for collegiate study, institutions may require eligible students to participate in a prefreshman summer program as a condition of their admission and/or eligibility to receive EOF grants and support services during the academic year. Institutions may permit EOF freshmen to enroll without [attending the] **participating in a** summer program [but shall], **so long as the institution** provides during the academic year[,] alternative activities for such students consistent with the [provisions] **goals** of N.J.A.C. 9A:11-5.1 and the [criteria in] **requirements of** N.J.A.C. 9A:11-5.3.

(c) (No change.)

9A:11-5.6 Summer program evaluation

(a) (No change.)

(b) The [Commission/EOF] **EOF Central Office** may conduct additional summer program evaluations, including visitations, to ensure maximum program effectiveness and accountability.

SUBCHAPTER 6. OPERATIONAL PROCEDURES FOR ACADEMIC YEAR AND SUMMER ARTICLE III STUDENT GRANTS AND ARTICLE IV PROGRAM SUPPORT SERVICES FUNDS

9A:11-6.1 Renewal application process for Article III student grants and Article IV program support funds

(a) The EOF Executive Director shall annually inform all participating colleges and universities about the availability of EOF Article III **and, when applicable, Article IV** summer program

funding, undergraduate and graduate student grants, and Article IV program support grants for the academic year, as well as all policies and procedures that will be used to distribute the anticipated appropriation based on the Governor's recommendation.

(b)–(c) (No change.)

(d) Each participating institution must complete a contract budget for funding that reflects the institution's monetary commitment to the campus EOF program. In addition, a mission statement for the campus program, [as well as up to five long-term] **including mandatory** measurable goals **as set forth in N.J.A.C. 9A:11-4.2(a)2**, desired outcomes, and a time-line to improve the campus program's overall student performance must be included as part of the contract.

(e) An institution shall have the authority to manage its EOF summer student enrollment within the approved Article III **and, when applicable, Article IV** summer program allocation and to manage its academic year undergraduate and graduate student enrollment within the approved Article III and Article IV academic year allocations.

(f) – (h) (No change.)

9A:11-6.2 Application process for new institutions to participate in the EOF program

(a) Institutions of higher education that wish to participate in the EOF program for the first time shall be licensed by the New Jersey [Commission on] **Office of the Secretary of Higher Education** and accredited by an accrediting body recognized by the U.S. Secretary of Education and shall submit to the EOF Executive Director a letter of intent and a plan that includes the following information:

1. - 4. (No change.)

(b) The [Commission/EOF] **EOF Central Office** shall review the letter of intent and may select an external consultant(s) to conduct, at the institution's expense, a site visit to assess the requesting institution's capability to provide the type of program described in the plan.

(c) – (d) (No change.)

9A:11-6.5 Article III student grant notification and payment

(a) Before Article III student grant funds can be disbursed in their name, eligible students shall demonstrate that they have complied with the Military Selective Service Act pursuant to [N.J.A.C. 9A:8-5, Selective Service Compliance] **N.J.S.A. 18A:71B-6**.

(b)–(d) (No change.)

9A:11-6.6 Request for payment, adjustment, refund, and/or collection of Article III student grants

(a) – (b) (No change.)

(c) At the request of the EOF Executive Director, institutions shall submit to the [Commission/EOF] **EOF Central Office** student background information that was essential in determining a particular student's eligibility or ineligibility for the EOF program.

(d) (No change.)

(e) All participating institutional programs shall cooperate fully in specified program analyses and evaluation activities carried out by the [Commission/EOF] **EOF Central Office** in accordance with N.J.A.C. 9A:11-6.15, Program improvement and evaluation process, and [N.J.A.C. 9A:11-]6.17, Fiscal audit requirements.

(f) (No change.)

9A:11-6.9 Institutional commitment

(a)–(b) (No change.)

(c) Participating institutions shall provide a broad range of support services to students enrolled in the program. Institutions shall provide matching funds equivalent to no less than the total academic year Article IV program support allocation provided by the Board.

1. The institutional match for campus EOF program costs may consist of any of the following:

i. –v. (No change.)

vi. Indirect/**overhead** expenses, such as space, light, heat, etc., up to but not more than 10 percent of total program costs.

2. (No change.)

(d) - (e) (No change.)

9A:11-6.14 Recordkeeping and data collection

(a) Data collection is essential to identifying target populations and developing admissions criteria, as well as designing program services, monitoring student progress, determining the effectiveness of program activities, and documenting outcomes. Each campus EOF program [should] **shall** have access to [state of the art] **state-of-the-art** hardware/software capabilities, as well as **institutional** management information systems and research staff. **Additionally, each campus EOF program shall have access to an electronic recordkeeping system with the ability to integrate EOF student data from institutional offices including admissions,**

financial aid, registrar, bursar, academic advisement, and other student support services.

Data to support recruitment and admissions shall include, at a minimum, each student's:

1. - 11. (No change.)

(b) – (e) (No change.)

9A:11-6.15 Program improvement and evaluation process

(a) – (b) (No change.)

(c) The following indices shall be used to determine the effectiveness of campus EOF programs and their compliance with this chapter:

1. Institutional goals for the EOF program **as set forth in N.J.A.C. 9A:11-4.2(a)2;**

2. Program outcomes including:

i.-ii. (No change.)

iii. Enrollment [through the program of at least 10 percent of the] **of EOF full-time [first time] first-time undergraduate students as a percentage of the institution's entering fall cohort of full-time first-time** New Jersey residents in the institution's [freshman] **undergraduate** class, as specified at N.J.A.C. 9A:11-4.5(b);

iv.- v. (No change.)

3. (No change.)

(d) The EOF Executive Director shall conduct regular program audits and evaluations to determine regulatory compliance and program effectiveness. The [Commission/EOF] **EOF Central Office** or its assigned representatives shall provide due notice of a visit to a participating institution to conduct monitoring activities, which may include evaluation, audits, and postaudit activities.

9A:11-6.16 Annual program report

(a) Participating institutions shall submit to the [Commission/EOF] **EOF Central Office** reports of program activities, outcomes, and fiscal expenditures in a format established before the reporting period.

(b) – (c) (No change.)

9A:11-6.17 Fiscal audit requirements

(a) (No change.)

(b) The institution's EOF program shall be included as part of the institution's periodic audit by an independent accounting firm to ensure compliance with this chapter, and the institution shall provide a copy of the audit report to the [Commission on] **Office of the Secretary of Higher Education**. The Board, through the [Commission] **Secretary**, reserves the right to conduct its own institutional audit.

(c) (No change.)