

HIGHER EDUCATION

EDUCATIONAL OPPORTUNITY FUND

Administrative Procedures and Policies

Financial Eligibility,

Summer Program, and

Operational Procedures for Academic Year and Summer Article III Student Grants

and Article IV Program Support Services Funds

Proposed Amendments: N.J.A.C. 9A:11-2.4, 5.2, 5.3, 5.4, 6.1, 6.3, and 6.10

Authorized By: Educational Opportunity Fund Board of Directors,

Barbara Wallace, Chairperson

Authority: N.J.S.A. 18A:71-33

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

Proposal Number: PRN 2006 – 373

Submit written comments by January 19, 2007 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 support services while enrolled at participating New Jersey colleges and universities. The program is a collaborative effort: the EOF Board of Directors (under the general supervision of the Commission on Higher Education) administers the program, and the participating institutions directly serve the students.

Working with the 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.

To effect the required annual notice regarding the EOF income eligibility scale, the EOF Board proposes amendments at N.J.A.C. 9A:11-2.4(a) reflecting increases in the gross-income eligibility cut-offs by household size for the 2007-08 academic year. In accordance with established procedure, the proposed new income allowances are derived from the official Federal poverty guidelines published in the January 24, 2006 edition of the Federal Register. The Federal poverty thresholds are adjusted by 200 percent (that is, doubled), as instructed in N.J.A.C. 9A:11-2.4(a). The Board is also proposing that, in the future, the annual adjustments to the gross income limits set forth in N.J.A.C. 9A:11-2.4(a) be updated each summer through a notice of administrative changes published in the New Jersey Register.

Prior to fiscal year 1989, the EOF summer program was funded entirely by the Article III appropriation. In March of 1989, the EOF Board approved the use of Article IV funds for the first time to help support summer program activities. Since that time, campus EOF summer programs have been funded through a combination of Article III funds to cover the costs of education (that is, tuition, fees, room and board, stipends, books, insurance fees, etc.), and Article IV funds to finance the cost of program services (that is, peer tutors, residential counselors, supplies, etc.). The current N.J.A.C. 9A:11-6.3(b), adopted in April of 2000, restricts Article III use to cover students' educational costs only. This language reflected the budget environment at that time. However, the fiscal year 2006 Article III appropriation increase provided the opportunity to readjust the summer funding combination, and therewith use summer program Article III funds for a larger portion of the summer program costs, including program services currently funded by Article IV.

To address the expanded use of Article III grant funds during the summer program, amendments are proposed to sections of Subchapters 5 and 6. The amendments proposed in Subchapter 5 provide campus program administrators with clarity regarding the EOF Board's eligibility criteria and expectations for the summer program and its budget management and increases their professional discretion to target finite summer funds for renewal students. Specifically, at N.J.A.C. 9A:11-5.2 the proposed amendments clarify that only institutions that enroll students who receive academic year Article III grants can apply for summer program funds. The language proposed for N.J.A.C. 9A:11-5.3(a) expands the description of what the summer program is designed to assess so that each program will reflect the current state-of-the-art for opportunity programs. At N.J.A.C. 9A:11-5.4(c), the phrase

“which are funding priority categories” is proposed for deletion to provide program directors with more discretion in the selection of renewal students for summer funding. The amendments proposed to Subchapter 6 clarify how Article III grant funds can be used during the summer program, and distinguish between the use of academic year and summer program Article III and Article IV funds.

Amendments proposed at N.J.A.C. 9A:11-6.1(f) add the words “and Article IV”, after “Article III” to clarify the funding sources for the summer program and academic year.

At N.J.A.C. 9A:11-6.3(a), language is proposed to clarify how academic year Article III grant funds are allocated as semester grants per student and applied toward student educational costs only. The language proposed at N.J.A.C. 9A:11-6.3(b) spells out that summer Article III funds can be used for students educational costs and/or instructional costs. Additionally, the amendment clarifies that tuition charged per student, or instructional costs (but never both for any single course) can be included as part of an institution’s educational budget or instructional costs. Salaries, and room and/or board for professional, graduate, and/or peer tutors can also be included as part of an institution’s educational budget or instructional costs. The proposed amendment at N.J.A.C. 9A:11-6.3(c) deletes the term “student grants” and adds the word “funds” after Article III, because the summer program Article III allocation to campus EOF programs is not truly a per student grant as in the academic year. At N.J.A.C. 9A:11-6.10(a)1, the term “academic year” is added to distinguish the difference between allowable uses in employee benefits in the academic year versus the summer program. The new language proposed at N.J.A.C. 9A:11-6.10(a)6 adds the words “12-month” to distinguish between the 12-month regular program employees and those hired only for the summer program.

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

#### Social Impact

The proposed amendments to the income eligibility scale and the use of Article III summer program funds preserve the campus EOF programs' original mandate to serve students who are educationally and economically disadvantaged. Fifty percent of the EOF student population comes from the 30 Abbott school districts, which are characterized by both low student achievement and concentrated poverty. During fall 2005, the median family income of EOF students was less than \$25,000. Almost all EOF students are first-generation college students, 40 percent come from single-female-headed households, and 15 percent come from households receiving public assistance.

The amendments proposed to clarify the use of Article III funds during the summer and to distinguish between the use of academic year and summer program Article III and Article IV funds provide campus EOF programs with all available resources to strengthen direct services to students. They also provide institutions with the flexibility to better manage their summer program resources to achieve the student outcomes they have established.

#### Economic Impact

State appropriations provide funds for EOF student grants, while the State and participating institutions share the costs of program support services. The total fiscal year 2007 appropriation for EOF is about \$40.6 million; roughly \$11.9 million is for academic year program support, and the participating institutions must match

their respective shares of this amount. Approximately \$18.9 million is used for academic year undergraduate and graduate grants and \$9.8 million for the summer program. During the 2005-06 academic year, there were more than 13,700 students (unduplicated headcount) in 56 programs at 41 New Jersey colleges and universities. The proposed revisions provide the EOF with the flexibility to use the annual Article III appropriation to maximize the support services that campus programs use during the summer to provide access, improve student persistence, and increase graduation rates without directly imposing increased costs on the participating institutions. However, participating institutions can decide to increase the number of students they serve in the summer program or enhance the support services offered, beyond their annual EOF summer program Article III allocation approved by the EOF Board of Directors. Institutions that decide to operate summer programs that exceed their annual EOF Board approved summer program allocation may incur additional costs in the areas of instruction, room and/or board, staff salaries, books and educational supplies. The 200 percent adjustment to the Federal poverty thresholds as instructed in N.J.A.C 9A:11-2.4(a) to derive the EOF income eligibility scale reflects New Jersey's higher cost of living compared with the rest of the United States.

#### Federal Standards Statement

The proposed amendments are not subject to a Federal standards analysis under Executive Order No. 27 (1994) because EOF was established by New Jersey legislation, is wholly supported by State appropriations, and is not subject to any Federal requirement or standards.

#### Jobs Impact

The proposed amendments will not result in the generation or loss of any jobs.

### Agriculture Industry Impact

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

### Regulatory Flexibility Analysis

Of the nine colleges and universities within New Jersey, which are considered to be small businesses as defined under N.J.S.A.52:14B-16 et seq., the Regulatory Flexibility Act (Act); only two of these colleges are eligible to participate in the EOF program. The other colleges and universities in the State that participate in the EOF program employ more than 100 full-time employees, and are not considered “small businesses” under the Act.

The proposed amendments will require colleges and universities participating in the Educational Opportunity Fund Program to meet the standards for determining financial eligibility for initial Article III student grants, the operation of the EOF summer program, and the use of Article III and Article IV funds during the summer program and the academic year as described in the Summary above. In order to meet these requirements, the schools will not have to allocate additional resources (employees, materials, equipment, etc.) to ensure compliance with these proposed standards. The institutions that participate in the EOF program are annually required to submit contract budgets for the academic year and summer programs based on their approved allocations of Article III and Article IV funds for the fiscal year, a comprehensive program report, a summer program expenditure report, two interim academic year expenditure reports and a final academic year expenditure report. In addition, institutions also electronically request the academic year Article III student grant for the students enrolled in their program. The proposed amendments do not contain burdensome reporting requirements.

The two colleges that qualify as “small businesses” are held to the same standards as the other colleges participating in the EOF program. The economic impact on these two programs would be the same, and is as discussed in the Economic Impact above, should either program decide to increase their summer program student enrollment or enhance student support services beyond their EOF Board of Directors approved summer program allocation. The standards cannot be lessened for small businesses of this nature without significantly changing the population of students the EOF program serves or the type of academic support services EOF students are expected to receive. Therefore, no differing standards based on business size are offered.

#### Smart Growth Impact

The proposed amendments will have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

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

9A:11-2.4 Financial eligibility for initial Article III student grants

(a) The EOF Income Eligibility Scale is based on 200 percent of the annual Federal poverty guidelines (that is, doubled) as published annually 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 [spring] 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 as provided in (d), (f), (g) and (h) 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 [2006-07] <u>2007-08</u>	
Applicants with a	Gross Income
Household size of	Not to Exceed
1	\$ [19,140] <u>19,600</u>
2	[25,660] <u>26,400</u>
3	[32,180] <u>33,200</u>
4	[38,700] <u>40,000</u>
5	[45,220] <u>46,800</u>
6	[51,740] <u>53,600</u>
7	[58,260] <u>60,400</u>
8	[64,780] <u>67,200</u>

2. For each additional member of the household, an allowance of \$[6,520]6,800 shall be added to this amount in order to determine EOF eligibility for the [2006-07]2007-08 academic year.

3. (No change.)

(b) – (j) (No change.)

9A:11-5.2 Institutional eligibility

Any undergraduate institution in New Jersey that enrolls students who receive academic year Article III grants under the EOF program and is in compliance with N.J.A.C. 9A:11-1, 2, 4 and 6 is eligible to apply for summer program funds.

9A:11-5.3 Summer program requirements

(a) Summer programs shall be eligible for funding consideration if they:

1. (No change.)

2. Provide[ a complete] an assessment of students' [readiness for collegiate-level work] motivation and commitment to pursue postsecondary education, including but not limited to [basic] academic skills proficiencies, learning styles, and career interests;

3.-9. (No change.)

9A:11-5.4 Student eligibility

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

(c) Institutions shall establish criteria and a well-defined process for distributing summer program funding for renewal students. Depending on the availability of funds, renewal students may attend summer programs if such attendance accomplishes one of the following [(which are priority funding categories)]:

1. -7. (No Change.)

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

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

(f) An institution shall have the authority to manage its EOF summer student enrollment within the approved Article III and 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 allocation.

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

9A:11-6.3 Use of Article III grant funds

(a) [The] EOF Article III academic year [grant] funds are allocated as semester grants per student and shall be applied [to the] toward student's educational costs only. Such costs shall include whatever constitutes the participating institution's educational budget and may include tuition, fees, room and board, books, educational supplies, transportation and child care.

(b) The EOF Article III summer program [grant] allocation shall be applied [to the student's] toward EOF summer students' educational costs [only]. [Such] In the summer, such costs shall include whatever constitutes the participating institution's educational budget and/or instructional costs as follows:[may include tuition, fees, room and board, books, educational supplies, transportation and child care, as well as stipends and insurance]

1. Tuition charged per student or instructional costs (that is, instructors' and teaching assistants' salaries), but never both for any single course;
2. Fees, room and board, books, educational supplies, transportation, and child care, as well as stipends and insurance;
3. Salaries, and room and/or board for professional, graduate, and/or peer tutors; and
4. Educational materials used to support instruction.

(c) Use of Article III [student grants] funds for any other costs is strictly prohibited.

#### 9A:11-6.10 Restrictions on Use of Article IV Program Support Funds

(a) Article IV program support funds shall not be used for the following items:

1. Employee benefits for academic year student assistants and part-time personnel;
- 2.-5. (No change.);
6. Any fringe benefits for 12-month EOF staff at public senior institutions and, for 12-month EOF staff at community colleges and independent institutions, fringe benefits that exceed 21 percent of the salaries and wages paid by EOF funds;
- 7.-10. (No change.).