

**HIGHER EDUCATION
COMMISSION ON HIGHER EDUCATION
Minority Academic Career Program
Proposed New Rules: N.J.A.C. 9A:17**

Authorized By: Commission on Higher Education, Steven D. Weinstein, Chair.

Authority: N.J.S.A. 18A:72F-1 et seq., 18A:72F-4 and 18A:72F-11.

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

Proposal Number: PRN 2010-193.

Submit written comments by November 6, 2010 to:

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The agency proposal follows:

Summary

The Minority Faculty Advancement Program (N.J.S.A. 18A:72F-1 et seq.) is comprised of campus assistance grants, faculty incentive hiring grants and undergraduate fellowships, known collectively as the Minority Academic Career (MAC) program. The program seeks to increase the diversity on New Jersey college and university campuses among both faculty and administrators from historically disadvantaged minority groups. MAC was administered by the Higher Education Student Assistance Authority (HESAA or Authority) until 1999, when statutory changes placed the program under the aegis of the Commission on Higher Education (Commission). The 1999 amendments eliminated the faculty advancement program's original loan and loan redemption provisions; HESAA is responsible for the phase-out of the existing redemption agreements. (The authority's rules at N.J.A.C. 9A:8-3 pertain to those original provisions).

The Commission on Higher Education's expired rules proposed herein as new rules for MAC meets the statutory obligation to implement N.J.S.A. 18A:72F-1 et seq. in line with the fiscal year (FY) 2011 appropriation of funds to support the program. The FY 2011 appropriation for the MAC program provides sufficient funds to continue to support the students currently receiving campus assistance grants, however, the Commission on Higher Education staff anticipates that those funds will be exhausted at the conclusion of the fiscal year 2011 and the campus assistance grants will be phased out. In addition, prior year funds have been encumbered for the faculty incentive hiring grant component of the program. The fiscal year 2011 appropriation does not provide for new incentive hiring grants, so the Commission will simply be managing existing incentive hiring grants using funds encumbered from prior years. No funds were appropriated for FY 2011 to administer the undergraduate fellowships pursuant to N.J.S.A. 18A:72M-1 et seq., consequently this component is being eliminated.

The expired rules proposed herein as new rules are organized into three subchapters. Proposed Subchapter 1 sets forth the authority and purpose of the MAC program. At N.J.A.C. 9A:17-1.1(a) the reference to Undergraduate Fellowships, N.J.S.A. 18A:72M-1 et seq., is being eliminated and the new language proposed indicates that the program is being modified to meet the requirements of the FY 2011 appropriations act, which eliminated funding for the undergraduate fellowships. At N.J.A.C. 9A:17-1.2 the various terms used throughout the chapter are defined and definitions for the following terms are eliminated, "MAC Program Advisory Committee," "sponsoring institution" and "undergraduate fellow" because the current funding for the program does not support these activities. The proposed definition of "Minority Academic Career (MAC) Program" removes the reference to the Minority Undergraduate Fellowship Program (N.J.S.A. 18A:72M-1 et seq.), as this component of the program is no longer funded. N.J.A.C. 9A:17-1.3, Program Advisory Committee, is not being proposed as new rules, as funding to support this activity no longer exists, and the Commission is proposing that the administration of the prior MAC program be codified as N.J.A.C. 9A:17-1.3 without change.

Proposed Subchapter 2 sets forth the campus assistance grants, with N.J.A.C. 9A:17-2.1 establishing the components of the doctoral/dissertation fellowship program. The rules proposed for N.J.A.C. 9A:17-2.2 set forth student eligibility for doctoral/dissertation fellowships. At N.J.A.C. 9A:17-2.2(b)4i and iii and 2.2(c)3i and iii, the reference to N.J.A.C. 9A:11-2.4 is being recodified as N.J.A.C. 9A:11-2.3 to reflect a recent codification change in the New Jersey EOF Article III student grant administrative code. Funding to support the selection of doctoral fellows is no longer available, therefore N.J.A.C. 9A:17-2.3 is not included in the expired rules proposed herein as new rules. Existing N.J.A.C. 9A:17-2.4, Institutional responsibilities, and 2.5, Student responsibilities, both for the campus assistance grants are being proposed to be codified as N.J.A.C. 9A:17-2.3 and 2.4, respectively. Existing N.J.A.C. 9A:17-2.4(a)2, is proposed for deletion from the expired rules proposed herein as new rules because funding is no longer available to support the nomination of new candidates. Additionally, existing N.J.A.C. 9A:17-2.4(d)3 is proposed for deletion from the expired rules proposed herein as new rules as N.J.A.C. 9A:17-2.7, Services to prior program participants, has been eliminated from the expired rules proposed herein as new rules because of funding cuts. N.J.A.C. 9A:17-2.6, Commission responsibilities, is being proposed for recodification as N.J.A.C. 9A:17-2.5. Also the language at the previous N.J.A.C. 9A:17-2.6(a) and (b) is proposed for deletion from the expired rules proposed herein as new rules as funding no longer exist for these activities.

Proposed Subchapter 3 delineates the components of the incentive hiring grants, with N.J.A.C. 9A:17-3.1 setting forth rules for institutional participation in the incentive hiring grant program. Existing N.J.A.C. 9A:17-3.1(d)3 and 4 are proposed for recodification as N.J.A.C. 9A:17-3.1(e) and (f), as they are not a subpart of existing subsection (d). N.J.A.C. 9A:17-3.2 set forth the responsibilities of the beneficiary. At N.J.A.C. 9A:17-3.3 "Institutional application process" is proposed for deletion from the expired rules proposed herein as new rules as funding to provide new incentive hiring grants was eliminated. The Commission proposes that N.J.A.C. 9A:17-3.3, Institutional payment process, be recodified as N.J.A.C. 9A:17-3.3 without change.

N.J.A.C. 9A:17-3.5, Annual notification, and N.J.A.C. 9A:17-4, Undergraduate Fellowships, are proposed for deletion from the expired rules proposed herein as new rules, as funding no longer exists for new incentive hiring grants and the funding for undergraduate fellowships was completely eliminated.

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 expired rules proposed herein as new rules establish a regulatory framework to maintain implementation of those components of the MAC program that have retained an appropriation. The proposed new rules set forth the statutory purpose of assisting qualified disadvantaged individuals in obtaining access to equal educational and employment opportunities, toward the ultimate goal of greater campus diversity. Increased numbers of undergraduate and graduate students from disadvantaged backgrounds will enhance student diversity in New Jersey doctoral programs and, ultimately, enlarge the pool of such individuals from which New Jersey institutions of higher education can recruit candidates for faculty and administrative positions.

Economic Impact

The expired rules proposed herein as new rules will make it possible for the New Jersey doctoral institutions to continue to provide doctoral/dissertation fellowship packages of up to \$17,000, with a required institutional contribution, to the five students currently enrolled in the MAC program during the fiscal year 2011. The rules will also enable institutions to continue the benefit to newly hired faculty and administrators from disadvantaged backgrounds, of providing loan reimbursements of up to \$10,000 per year to a maximum of \$40,000 over four years.

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 Minority Academic Career Program 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 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 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 do not impose requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The expired rules proposed herein as new rules pertain strictly to public and publicly funded independent colleges and universities in New Jersey, none of which qualify as a small business.

Smart Growth Impact

The expired rules proposed herein as new rules will have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The expired rules proposed herein as new rules do not require a housing affordability analysis because these rules govern the Minority Academic Career program, which provides campus assistance grants to provide doctoral fellowships to qualified disadvantaged individuals and incentive hiring grants as a benefit to new faculty and administrators from a disadvantaged background to help these new hires repay their educational related loans. There is an extreme unlikelihood that the expired rules proposed herein as new rules will evoke a change in the average costs associated with housing.

Smart Growth Development

The Commission believes 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 because the rules govern the Minority Academic Career program, which provides campus assistance, and hiring incentive grants to disadvantaged doctoral candidates, and new faculty from disadvantaged backgrounds at New Jersey colleges and universities.

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:17. **Please note** that the following expired rules are **not** proposed as new rules, N.J.A.C. 9A:17-1.3, 2.3, 2.7, 3.3, 3.5 and 4.

Full text of the proposed amendments to the expired rules proposed herein as new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. INTRODUCTION

9A:17-1.1 Authority and purpose

(a) The Commission on Higher Education is charged with implementing Campus Assistance Grants, pursuant to N.J.S.A. 18A:72F-1 et seq., and Undergraduate Fellowships, N.J.S.A. 18A:72M-1 et seq. [These] **This** program[s have] **has** been modified to meet [legal requirements] **the fiscal requirements of the FY 2011 Appropriations Act** and to preserve the broad purpose of providing assistance to disadvantaged doctoral candidates [and disadvantaged undergraduates who are interested in pursuing academic careers and new faculty from disadvantaged backgrounds]. Recodify existing 1. and 2. as **(b) and (c)** (No change in text.)

9A:17-1.2 Definitions

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

...

“Faculty mentor” means any person employed full-time by a New Jersey institution of higher education to perform primarily teaching or research duties who agrees to participate in the Minority Faculty Advancement Program [or the Minority Undergraduate Fellowship Program] and abide by all terms and conditions of such participation as set forth in this chapter.

“Full-time student” means one who, in a semester, quarter, or the equivalent thereof, is engaged in coursework or research necessary to constitute full-time status as defined by the host institution, in the case of MAC doctoral fellows and prior MAC program participants[, or the sponsoring institution, in the case of MAC undergraduate fellows].

...

[“MAC Program Advisory Committee” means a committee appointed by the Executive Director of the Commission, in consultation with the Executive Director of the Educational Opportunity Fund, to recommend undergraduate and doctoral fellows for the MAC program.]

“Minority Academic Career (MAC) Program” encompasses the Minority Faculty Advancement Program (N.J.S.A 18A:72F-1 through 4 and 18A:72F-10 through 13) [and the Minority Undergraduate Fellowship Program (N.J.S.A. 18A:72M-1 et seq.)].

...

[“Sponsoring institution” means a public institution of higher education or a private institution with a public purpose as defined in the Independent College and University Assistance Act (N.J.S.A. 18A:72B-15 et seq.) which has authority under the laws of New Jersey to award baccalaureate degrees and which provides institutional support for undergraduate MAC fellows as set forth in this chapter.]

...

SUBCHAPTER 2. CAMPUS ASSISTANCE GRANTS

9A:17-2.1 Establishment of doctoral fellowship program

- (a) Except as provided for in (d) below [and in N.J.A.C. 9A:17-2.7], campus assistance grants shall support MAC doctoral fellowships, of which there are two types, study fellowships and dissertation fellowships.
- (b) (No change.)
- (c) Renewal of a doctoral study fellowship shall be contingent upon the fellow's compliance with the requirements set forth at N.J.A.C. 9A:17-[2.5]**2.4**.
- (d) – (e) (No change.)

9A:17-2.2 Student eligibility for doctoral fellowships

- (a) (No change.)
- (b) To qualify as a nominee for a MAC doctoral fellowship, an individual shall:
 1. – 3. (No change.)
 4. Be from a disadvantaged background, as demonstrated by inclusion in at least one of the following categories:
 - i. Meet the requirements of N.J.A.C. 9A:11-[2.4]**2.3**;
 - ii. (No change.)
 - iii. Be a student who would have been eligible as an undergraduate for a New Jersey EOF Article III student grant [(N.J.A.C. 9A:11-2.4)]; or
 - iv. (No change.)
 - (c) To qualify as a nominee for a MAC dissertation fellowship, an individual shall:
 1. -2. (No change.)
 3. Be from a disadvantaged background, as demonstrated by inclusion in at least one of the following categories:
 - i. Meet the requirements of N.J.A.C. 9A:11-[2.4]**2.3**;
 - ii. (No change.)
 - iii. Be a student who would have been eligible as an undergraduate for a New Jersey EOF Article III student grant [(N.J.A.C. 9A:11-2.4)]; or
 - iv. (No change.)

9A:17-[2.4]**2.3** Institutional responsibilities

- (a) A host institution shall:
 1. (No change.)
 - [2. Nominate candidates for MAC doctoral fellowships;]
- Recodify existing 3. – 5. as **2. – 4.** (No change in text.)
- (b) – (c) (No change.)
 - (d) Regarding prior MAC program participants, a host institution shall:
 1. (No change.)
 2. Provide to those who have not already received such aid for four years an annual grant of at least \$5,000 or 50 percent of total full-time tuition and fees, whichever is greater and which may include tuition remission; **and**
- [3. Make available services as specified at N.J.A.C. 9A:17-2.7; and]
- [4.] **3.** (No change in text.)

9A:17-[2.5]**2.4** Student responsibilities

- (a) Each doctoral fellow and prior MAC program participant shall:
 1. (No change.)
 2. Pay all tuition, fees[,] and other educational expenses, except for any charges or costs waived by the host institution pursuant to the provisions of N.J.A.C. 9A:17-[2.4(a)3]**2.3(a)3** or any other financial aid provided by the institution;
 3. – 4. (No change.)

(b) (No change.)

9A:17-[2.6]2.5 Commission responsibilities

[(a) The Executive Director shall notify annually all New Jersey doctoral colleges and universities regarding the availability of campus assistance grants and regarding the process and deadlines for submitting nominations and awarding graduate fellowships.

(b) To help enlarge the pool of potential candidates for MAC doctoral fellowships, the Executive Director shall disseminate information regionally and nationally regarding the MAC program and the availability of the fellowships.]

[(c)] The Executive Director shall disseminate annually to presidents and other appropriate officers at New Jersey colleges and universities information about all MAC doctoral fellows and prior MAC program participants, including their areas of specialization and their current and future availability for faculty and administrative positions.

SUBCHAPTER 3. INCENTIVE HIRING GRANTS

9A:17-3.1 Institutional participation

(a)-(c) (No change.)

(d) Institutions that receive incentive hiring grants shall enter into an agreement with the Commission to provide loan redemption up to \$40,000 over four years, as follows:

1. If the total amount of eligible loans equals or exceeds \$40,000, the institution may redeem up to \$10,000 per year to a maximum of \$40,000[.]; **and**

2. (No change.)

Recodify existing 3. and 4. as (e) and (f) (No change in text.)

9A:17-3.2 Beneficiary responsibilities

(a) A potential beneficiary must provide evidence that as an undergraduate or graduate student[s] he or she [is] **was** from a disadvantaged background, as demonstrated by inclusion in at least one of the following categories:

1. Meet the requirements of N.J.A.C. 9A:11-[2.4]2.3;

2. (No change.)

3. [Be] **As** a student, [who] would have been eligible as an undergraduate for a New Jersey EOF Article III student grant [(N.J.A.C. 9A:11-2.4)]; or

4. [Be] **Was** a first-generation college student whose immediate family [is or] was eligible for government assistance and/or educational programs targeted toward low income and disadvantaged populations (TRIO, NJ GEAR UP, free and reduced breakfast programs, food stamps or at least one year of Pell grants).

(b) (No change.)

(c) The beneficiary shall provide such evidence as the **host** institution may require that he or she has redeemed some portion of the eligible student loan(s) during the academic year, unless the institution or the Commission makes the loan redemption payment(s) directly to the lender, as indicated in N.J.A.C. 9A:17-3.1(d)3 and [3.4(c)] **3.3(c)**, respectively.

(d) The beneficiary shall comply with all Federal and State tax laws and regulations **and rules** regarding the additional compensation received from the **host** institution or the payment(s) to the lender(s) made by the **host** institution [of] **or** the Commission, if applicable, for the purposes of redeeming eligible student loans under this program.

9A:17-[3.4]3.3 (No change in text.)