

**HIGHER EDUCATION**

**EDUCATIONAL OPPORTUNITY FUND**

**Undergraduate EOF Academic and Financial Eligibility**

**Proposed Amendment: N.J.A.C. 9A:11-2.3**

Authorized By: Educational Opportunity Fund Board of Directors, Dr. Hasani Carter, EOF  
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 2019-027.

Submit written comments by May 3, 2019, to:

Dr. Hasani Carter, EOF Executive Director

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The agency proposal follows:

## Summary

The Educational Opportunity Fund (EOF) program provides students from educationally and economically disadvantaged backgrounds with financial aid and other support services while attending participating New Jersey colleges and universities. The program is a collaborative effort. Under the general supervision of the Secretary of Higher Education, the EOF Board of Directors (EOF Board) administers the program and the participating institutions that 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, assets, 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.

Amendments are proposed at N.J.A.C. 9A:11-2.3(h), (i), and (k). At N.J.A.C. 9A:11-2.3(h), new language is proposed that will establish "assets" as part of the discretionary consideration for a student, as long as the assets do not exceed 20 percent of the maximum income allowance as per the 281 percent of the Federal poverty guidelines. Also proposed for amendment within this subsection is the removal of the term "first-year" and replacement with the term "initial," as programs are limited to only 10 percent of all their initial class to be considered for discretionary purposes. Additionally, at N.J.A.C. 9A:11-2.3(i), the phrase "over-income" is proposed for deletion and replaced with "financial eligibility." Using the phrase "financial eligibility" will allow for programs to submit a waiver consideration to the EOF Executive Director for either income and/or assets. At N.J.A.C. 9A:11-2.3(k), the phrase "and

assets” is proposed for addition to reflect the incorporation of this information in determining student financial eligibility.

As the EOF Board 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**

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 unequal opportunities. Approximately 60 percent of 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 the State’s colleges and universities. The proposed amendment to the EOF financial eligibility for initial Article III student grants will help to provide access to more New Jersey residents. Based on the fiscal year appropriations act, programs must still work within their allocation to support as many eligible students as possible. Should the fiscal year appropriation contain sufficient resources to increase EOF campus program Article III allocations, programs will be encouraged to support more students.

### **Economic Impact**

The ability to permit more students to be eligible for EOF while remaining within the spirit and intent of the Fund remains critical for the State’s ability to support as many New Jersey residents to afford a college education. Annually, programs are provided an identified allocation

and must work within this allocation to support as many EOF eligible students as possible. As a result, the proposed amendment will not have an adverse economic impact. The EOF Executive Director is responsible for notifying the public annually of the EOF Income Eligibility Scale through publication in the New Jersey Register and on the Office of the Secretary of Higher Education's website. This information is historically provided a year in advance, so that programs can recruit and admit students accordingly for the subsequent academic year.

#### **Federal Standards Statement**

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

#### **Agriculture Industry Impact**

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

#### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the proposed amendment to the rules does not impose requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment to the rule pertains 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 proposed amendment does not have an effect on the affordability of housing, nor does it evoke a change in the average costs associated with housing because the proposed amendment governs how the EOF Board will determine the financial eligibility amounts of the EOF undergraduate and graduate grant awards.

### **Smart Growth Development Impact Analysis**

The Office of the Secretary of Higher Education staff believes there is an extreme unlikelihood that the proposed amendment to the 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 how the EOF Board will determine the financial eligibility amounts of the EOF undergraduate and graduate grant awards.

### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The EOF Board has, after consideration, determined the proposed amendment will have no impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State.

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

## SUBCHAPTER 2. UNDERGRADUATE EOF ACADEMIC AND FINANCIAL ELIGIBILITY

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

(a)-(g) (No change.)

(h) Where there is evidence that strict adherence to the maximum income **and asset** 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 class of [first-year] **initial** students with family incomes as high as, but [nor] **no** more than, 281 percent of the Federal poverty guidelines **and whose assets do not exceed 20 percent of the maximum income allowance as per the 281 percent of the Federal poverty guidelines per household size**, as published annually by the Federal government. These discretionary admit students, however, shall also meet all eligibility provisions of N.J.A.C. 9A:11-2.2.

(i) Institutions shall obtain permission from the EOF Executive Director before exceeding the 10 percent discretionary, [over-income] **financial eligibility** waiver set forth in (h) above.

(j) (No change.)

(k) Notwithstanding provisions of (g) and (h) above, priority shall be given to students whose incomes **and assets** are within the limits of (a) above.