

**HIGHER EDUCATION**

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**SECRETARY OF HIGHER EDUCATION**

**COMMISSIONER OF EDUCATION**

**Rules and Procedures for Implementation of the Securing Our Children's Future Bond Act**

**Jointly Proposed New Rules: N.J.A.C. 9A:19**

Authorized By: Zakiya Smith Ellis, Ed.D., Secretary of Higher Education and Lamont O.

Repollet, Ed.D., Commissioner, Department of Education.

Authority: P.L. 2018, c. 119.

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

Proposal Number: PRN 2019-165.

Submit written comments by February 14, 2020, to:

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The agency proposal follows:

**Summary**

On November 6, 2018, the voters approved a general obligation bond issuance of \$50,000,000 for county college career and technical education (CTE) grants in association with the Securing Our Children's Future Bond Act, P.L. 2018, c. 119 (the Act), which Governor Murphy signed on August 27, 2018.

One purpose of the Act is to provide New Jersey county colleges with financial resources to increase the county colleges' capacity to offer CTE programs. Accordingly, funds from the Act will be used to provide county colleges with matching grants to construct and/or expand classrooms, laboratories, libraries, computer facilities, and other academic structures to increase career and technical education program capacity, which will provide direct benefits to students. Through the implementation of this provision of the Act, the proposed rules will advance important State goals, including the promotion of industry clusters, increased growth in employment opportunities, and enabling further access to opportunity for all New Jersey residents.

Accordingly, the Secretary of Higher Education (Secretary) proposes new rules at N.J.A.C. 9A:19, Rules and Procedures for Implementation of the Securing Our Children's Future Bond Act. These rules lay out the criteria for eligibility and specify procedures for the review and approval of county college CTE grants, ensuring that the funds are allocated consistent with the intent of the Act.

The proposed new rules are as follows:

N.J.A.C. 9A:19-1.1 sets forth that the rules implement the Act and establishes that the rules apply to the issuance of \$50,000,000 in general obligation bonds.

N.J.A.C. 9A:19-1.2 provides definitions for the terms used in the proposed new rules and includes a cross-reference to the definitions section of the Act.

N.J.A.C. 9A:19-1.3 delineates rules for the application of bond proceeds from the sale of bonds made pursuant to the Act.

N.J.A.C. 9A:19-1.4 sets forth the project funding eligibility criteria in order for a county college CTE grant application to be considered eligible.

N.J.A.C. 9A:19-1.5 delineates the rules associated with the grant application process, establishing that the Secretary shall only consider those applications that meet the project eligibility requirements at N.J.A.C. 9A:19-1.4.

N.J.A.C. 9A:19-1.6 presents the criteria the Secretary will use in the application review and approval process, including the allowable scopes of work, the objectives that must be addressed in each grant application, and which kinds of expenditures will be considered non-allowable under a CTE grant.

N.J.A.C. 9A:19-1.7 delineates the grant authorization process to be used by the Secretary to evaluate the CTE applications and make recommendations for approval and to refer requested re-allocations for projects to the Joint Budget Oversight Committee.

N.J.A.C. 9A:19-1.8 delineates payment of the grant, establishing that a county college shall provide matching funds for the project and establishes that the Secretary may terminate a grant agreement in an instance where a county college fails to pay matching funds.

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

### **Social Impact**

The county college CTE grants will increase the capacity for student enrollment in county college CTE programs, which will provide students with increased access to educational opportunities, both through an increase in the number of programs offered throughout the State

and by helping to offset potential tuition increases that would have been needed to fund CTE expansion in the absence of grant funds. The increased access to educational opportunities for students will allow those students to obtain employment at higher income levels and will allow them to contribute to the development of the high-tech industry sector of the New Jersey economy. All New Jersey county colleges are eligible to apply for CTE grants. Having the proposed new rules in place will expedite institutional applications and project approvals.

### **Economic Impact**

The grant program outlined in the proposed new rules is designed to bolster the ability of county colleges to continue to contribute to economic development in our State and the nation by educating and training students for high demand, technically skilled careers. Because the eligibility criteria requires alignment with the labor market demands and economic development goals, the grant program will assist in the building of a closer collaboration between county colleges and businesses that will support future economic growth in the State for years to come.

### **Federal Standards Statement**

The proposed new rules do not require a Federal standards analysis under N.J.S.A. 52:14B-22 et seq., because the proposed new rules implement the Act, which was enacted by the New Jersey State Legislature and approved by the voters, and the CTE grants will be wholly supported by State appropriations, so the grant applications are not subject to any Federal requirements or standards.

### **Jobs Impact**

The proposed new rules are designed to increase student enrollment in CTE programs and, therefore, increase the number of people entering the workforce with relevant skills to obtain high demand jobs. As a result of the CTE projects funded pursuant to the Act, there is expected to be short-term and long-term increases in employment rates in the well-paying jobs that are associated with high-demand, highly skilled industries. The proposed new rules are not estimated to result in the loss of any jobs.

### **Agriculture Industry Impact**

The proposed new rules have no impact on the agriculture industry.

### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the proposed 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., as the requirements are on the county colleges.

### **Housing Affordability Impact Analysis**

The proposed new rules are designed to increase student enrollment in CTE programs in county colleges, however, they are not estimated to impact housing affordability. New Jersey county colleges typically do not provide dormitories or housing accommodations because county colleges cater to commuters. Therefore, the proposed new rules are not estimated to cause an increase in demand for housing accommodations, or otherwise result in changes to the average costs associated with housing.

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

The Secretary is confident that the proposed new rules will not result in a change to housing production in Planning Areas 1 or 2, or within designated centers, under the State Development

and Redevelopment Plan in New Jersey, because the proposed new rules govern the implementation of the Act, which authorizes the issuance of bonds to be used for CTE project grants for New Jersey's county colleges.

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

The Secretary has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the proposed new rules follows:

#### CHAPTER 19

#### RULES AND PROCEDURES FOR IMPLEMENTATION OF THE SECURING OUR CHILDREN'S FUTURE BOND ACT

##### SUBCHAPTER 1. GENERAL PROVISIONS

##### 9A:19-1.1 Purpose and authority

This chapter implements the Securing Our Children's Future Bond Act, P.L. 2018, c. 119, an Act that authorized, among other things, the issuance of \$50,000,000 in general obligation bonds to finance higher education capital projects for increasing the career and technical education program capacity at county colleges. The bond proceeds will be used for grants that will fund no more than 75 percent of the eligible project cost.

##### 9A:19-1.2 Definitions

The following words and terms shall have the following meanings when used in this chapter, unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at P.L. 2018, c. 119, § 2.

“Act” means the Securing Our Children’s Future Bond Act, P.L. 2018, c. 119.

“Activities” means apprenticeships, co-ops, and other experiential learning opportunities.

“Bonds” means the bonds authorized to be issued under the Act.

“Career and technical education program” or “CTE program” means a program that offers a sequence of courses that provide students with the coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions. A career and technical education program provides technical skill proficiency, an industry-recognized credential, a certificate, or an associate degree.

“Construct” and “construction” means the planning, erecting, altering, repairing, purchasing, improving, developing, constructing, reconstructing, extending, rehabilitating, renovating, upgrading, demolishing, installing, and equipping of education buildings at county colleges.

“Construction ready” means the extent to which the planning and design work have been completed and construction is able to begin, and the degree to which a project shall be completed expeditiously once begun. An evaluation of whether a project is construction ready shall include the status of the design work, project site readiness, zoning, and permitting approvals, as well as the anticipated time frame during which the project will be completed, and the pacing of related construction.

“Cost” means the expenses incurred in connection with: the acquisition by purchase, lease, or otherwise, the development, and the construction of any project authorized by the Act; the acquisition by purchase, lease, or otherwise, and the development of any real or personal property for use in connection with a project authorized by the Act, including any rights of interest therein; the execution of any agreements and franchises deemed by the Commissioner of Education or the Secretary of Higher Education to be necessary or useful and convenient in connection with any project; the procurement or provision of engineering, architectural design, surveying, inspection, planning, legal, financial, or other professional services, estimates, studies, reports, or advice; and feasibility studies.

“County college” means an entity established pursuant to Chapter 64A of Title 18A of the New Jersey Statutes.

“Day” means business day, when the period specified is less than seven days and calendar day when the period specified is seven days or more.

“Education buildings” means buildings, structures, and facilities required for the operation of county colleges.

“Grant” means a grant of moneys from the Securing Our Children’s Future Fund approved by the Secretary for a project.

“Grant agreement” means the grant agreement between the county college and Office of the Secretary of Higher Education, which sets forth the terms and conditions of the grant, amount of the grant, and disbursement schedule.

“Matching funds” means funds that are allocated by the county college for a specific project for which grants funds are used, which are equal to 25 percent of the total cost of such project and which are generated from institutional resources, other grants, institutional



borrowings, or other sources as permitted in the grant approval process. Notwithstanding anything in this definition to the contrary, funds from State government sources may not be used to satisfy the matching requirement at N.J.A.C. 9A:19-1.3(c).

“Project” means the establishment and construction of education buildings and the expansion and construction of additional facilities at, and the acquisition and installation of additional or upgraded equipment for, existing or new education buildings, or parts thereof, at county colleges for the purpose of increasing academic capacity to expand or offer new career and technical education programs that shall include, but not be limited to, classrooms, laboratories, computer facilities, and other academic buildings and all property appurtenant thereto, but shall not include dormitories, administrative buildings, athletic facilities, or other revenue-producing facilities.

“School district” means a local or regional school district, a county special services school district, a county vocational school district, and a district under partial or full State intervention pursuant to P.L. 1987, c. 399 (N.J.S.A. 18A:7A-34 et seq.).

“Secretary” means the Secretary of Higher Education appointed pursuant to section 2 of P.L. 2009, c. 308 (N.J.S.A. 18A:3B-47).

“Stackable credentials program” means a program established for the purpose of supporting industry-recognized, short-term credentials and certificates that count toward a higher-level certificate or degree so that individuals may advance in employment and training over the course of their careers.

9A:19-1.3 Application of bond proceeds

(a) Pursuant to the Act, proceeds of bonds issued under the Act shall be credited to the Securing Our Children's Future Fund (the Fund).

(b) Money credited to the Fund is specifically dedicated and shall be used for the purposes identified in the Act, which provides, in part, an allocation of \$50 million for the purpose of awarding grants to county colleges for CTE projects. The allocation shall include an amount sufficient to address costs associated with administration of the grants by the State agencies.

(c) For any grant approved by the Secretary that is financed by the Fund, the grant shall support no more than 75 percent of the cost of the proposed CTE project, and the county college shall provide matching funds to support no less than 25 percent of the cost of the proposed CTE project.

#### 9A:19-1.4 Project eligibility

(a) In order for an application to be eligible for a grant, the county college must:

1. Document that it will use the career and technical education grants to:

i. Increase the capacity of the county college to offer stackable credential programs;

ii. Prepare students for high demand, technically skilled careers;

iii. Align the CTE programs with labor market demands or economic development goals, as set forth at N.J.A.C. 9A:19-1.6(a)2ii; and

iv. Demonstrate that it has an existing partnership, or will be entering into a partnership, with a county vocational school district and/or an employer or industry partner to provide technical education and training for current or potential employees;

2. Demonstrate that the project is construction ready;

3. Commit to providing matching funds to support no less than 25 percent of the costs of the project;

4. Commit to use the grant for the purposes described at N.J.A.C. 9A:19-1.3(b); and

5. Commit, by resolution of its governing board, to maintaining the capital improvement funded by the grant pursuant to the grant agreement.

#### 9A:19-1.5 Grant application

(a) The Secretary shall consider, for approval, grant applications that meet the project eligibility criteria at N.J.A.C. 9A:19-1.4.

(b) Upon approval of a resolution by its governing board at a duly authorized meeting, a county college shall apply to the Secretary for a grant from the Securing Our Children's Future Fund.

The county college's application shall include the following:

1. A completed application form as prescribed by the Secretary, which shall be available at <https://www.nj.gov/highereducation/socf>, including an executive summary of the project;

2. An approved resolution from the county college's board of trustees demonstrating support and financial commitment to the project if approved;

3. The college's most recent long-range facilities plan;

4. The college's plans for deferred maintenance;

5. Planning documents related to construction or procurement of equipment, including, but not limited to, blueprints, ecological evaluations, and equipment quotes'

6. A narrative, and supporting data, describing proposed program alignment with labor markets and underserved populations, as described at N.J.A.C. 9A:19-1.6(c);

7. A narrative describing the existing or new partnership(s) related to the program(s) for which the grant is sought, and a copy of the agreement(s), if applicable;

8. A narrative, and supporting data, describing the extent to which enrollments will increase as a result of the grant;

9. A conceptual site plan and floor plan blocking documents;

10. The cost data for the project, along with identification of all sources of funding to be used for any costs not funded by the grant;

11. The useful life of any project, including equipment, as determined either by reference to the Internal Revenue Service's Class Life Asset Depreciation Range System set forth in Revenue Procedure 87-56, as amended, supplemented, or superseded, or by appraisal of any independent engineering or accounting firm, as appropriate;

12. A certification by the county college that the project will comply with all applicable laws, rules, codes, statutes, and government guidelines, including the principles of affirmative action and equal employment opportunity, where applicable;

13. A certification by the county college that it has, or will have, the matching funds required pursuant to N.J.A.C. 9A:19-1.3(c);

14. If the proposed project includes work to a leased facility, a copy of the lease agreement or memorandum of understanding (MOU) with the lessor; and

15. Any additional information the county college deems necessary to demonstrate how the proposed project meets the objectives identified at N.J.A.C. 9A:19-1.6.

(c) County colleges shall not use as matching funds, and grant funds may not be used to reimburse, any expenditures made before the Legislature has approved the project list, provided that the expenditures meet the eligibility requirements at N.J.A.C. 9A:19-1.4.

(d) Grant applications shall be submitted electronically in a format provided by the Secretary.

#### 9A:19-1.6 Application review and approval process

(a) Applications for CTE grants shall demonstrate that the proposed project will meet all of the following criteria:

1. A net increase in the number of students in CTE programs and academic opportunity by offering new career and technical programs, or adding new courses within existing programs;

2. A focus on new student seats for CTE programs that prepare students for high demand, technically skilled careers in accordance with:

i. Labor market demands; or

ii. Economic development goals in the following key industry clusters:

(1) Construction and energy;

(2) Finance;

(3) Healthcare;

(4) Leisure and hospitality;

(5) Life sciences;

(6) Manufacturing;

(7) Retail trade;

(8) Technology; or

(9) Transportation, distribution, and logistics; and

3. All proposed work must directly support the expansion of CTE program capacity, and shall consist of one or more of the following scopes of work:

i. Renovation of existing square footage to increase program enrollment;

ii. New construction of a building addition or standalone building to increase program enrollment;

iii. Physical plant upgrades needed to support the conversion of existing space to support CTE programs or a building addition that increases CTE program enrollment;

iv. The purchase and installation of furniture and equipment, including technology, in new or renovated spaces;

v. Site improvements related to CTE program expansion; and/or

vi. Demolition of non-instructional buildings or portions of buildings to accommodate new construction that increases the number of student seats in CTE programs.

(b) The county college application shall demonstrate that it addresses the following objectives of this grant program:

1. Equitable access, which means how the county college will identify, recruit, and enroll economically disadvantaged and underserved populations;

2. Collaboration, which means the extent to which the county college will establish partnerships with one or more county vocational school districts or employers to expand the programs' impact by offering activities or courses that build career awareness or skills for students, or that develop the professional capacity of educators to teach CTE courses;

3. Industry-valued credentials, which means programs that lead to a New Jersey Department of Labor and Workforce Development (NJLWD) valued-credential in a high-demand sector, and how the program(s) support(s) diverse learners to earn one or more industry-valued credentials;

4. College credits, which means the extent to which students may earn county college credits (up to and including an associate degree), that are in a key industry cluster as set forth at (a)2ii above;

5. Apprenticeship, which means the extent to which the applicant identifies an industry partner that is currently operating an approved registered apprenticeship program and is willing to work with the applicant to offer the program to students; and

6. Innovation, which means the extent to which the proposed project will deliver the program(s) that leverage innovative technologies, schedules, teaching methodologies, and partnerships to provide authentic learning experiences in high-demand industries that are accessible to and engaging for 21st century learners.

(c) The following expenditures shall be non-allowable under the county college CTE program project grants:

1. Building system upgrades not related to CTE program expansion;
2. Building additions in which the total proposed net square footage of CTE classrooms, including adjacent support spaces serving the classroom, is less than 75 percent of the total net square footage of proposed construction;
3. Demolition that results in a net loss of instructional space for CTE programs;
4. Improvements to leased buildings, except where:
  - i. The lessor is a public entity, such as a school district or the State of New Jersey;
  - ii. The term of the lease agreement is for a minimum of 20 years, with an end date no earlier than June 30, 2044; and
  - iii. The county college is authorized to make the capital improvements represented in the grant agreement; and

5. Site improvements not directly related to CTE program expansion.

(d) Each application shall be ranked by the Secretary according to a scoring rubric that evaluates in accordance with the following criteria:

1. The extent to which the proposed project meets the eligibility requirements as set forth at N.J.A.C. 9A:19-1.4, the objectives as set forth at (b) above, and the application procedures outlined in this section;

2. The application quality, or the extent to which the application addresses the reporting requirements and presents a clear, accurate, and well-organized proposal to address the goals of the grant program;

3. For construction projects:

i. New construction efficiency, which means, as compared to proposals within similar industry cluster groups, the ratio of new student capacity to proposed new construction gross square footage;

ii. Building efficiency, which means, for both existing building square footage and new construction, the ratio of new student capacity to building gross square footage;

iii. The proposed county college building(s), including existing square footage and new construction, must have an efficient square footage per student based on total proposed college capacity; and

iv. Construction costs for CTE classrooms as compared to total construction costs efficiently address the goals of the grant program.

(e) In order to ensure the geographic diversity of county college CTE grant projects throughout the State, the Secretary may give a preference to applications in certain counties to ensure geographic diversity.



#### 9A:19-1.7 Authorization process

(a) The Secretary shall establish a review committee comprised of representation that may include the Office of the Secretary of Higher Education, the New Jersey Educational Facilities Authority, the New Jersey Department of Labor and Workforce Development, the New Jersey Department of Education, and any other State entity with technical expertise to evaluate project grant applications and make recommendations on funding.

(b) The Secretary shall examine the recommendations of the review committee and shall approve or disapprove a grant in accordance with N.J.A.C. 9A:19-1.6 and establish the amount of the grant in accordance with this subchapter.

(c) The total dollar amount of a grant approved for any county college shall not exceed \$4,000,000.

(d) The Secretary shall prepare and deliver a list of projects that meet the eligibility requirements set forth by the Securing Our Children's Future Fund and by this chapter that have been approved for funding by the Secretary, including the amount of each project grant, to presiding officers of each house of the Legislature on a date that both houses are in session. The list shall be deemed to be approved in its entirety, unless the Legislature adopts a concurrent resolution stating that the Legislature is not in agreement with the list within 60 days following the date of transmittal of the list to the Legislature. The payment of project grants on the list of projects shall be subject to the prior appropriation of sufficient funds pursuant to section 14 of the Act for total project amounts so listed.

(e) Upon authorization of a grant pursuant to (d) above, funding of the grant shall be contingent upon:

1. Appropriation of sufficient funds pursuant to P.L. 2018, c. 119, § 14 for the project set forth in the list of eligible projects sent to the Legislature;

2. Execution of a grant agreement with the Secretary; and

3. The county college's continued compliance with the grant agreement.

(f) Each recipient of a grant shall provide such information as the Secretary may request during the use of the grant and the process of the project.

(g) The Secretary may, consistent with the Act, allocate any balance of an approved grant to another approved grant, contingent on the following:

1. If a county college determines not to undertake a project for which a grant was awarded;

2. To adjust for actual project expenses in a manner consistent with the approved project;

3. If the project is not substantially completed, and the grant substantially disbursed, six months after the estimated construction completion date set forth in the grant application, as adjusted for any actual delay to the county college entering into a construction contract pursuant to (e) above; or

4. If a county college fails to comply with the provisions of the grant agreement as set forth in (e) above.

(h) No reallocation shall be made pursuant to (g) above if:

1. Delays are the result of Federal, State, or local government approvals or regulatory requirements not attributable to the county college; or

2. In the sole determination of the Secretary, there are other compelling and documentable reasons.

(i) Failure to comply with the grant agreement may result in the applicant's obligation to repay the grant funds.

#### 9A:19-1.8 Payment of the grant

(a) The county college shall provide the matching funds on the schedule set forth in the grant agreement.

(b) If a county college fails to pay the matching funds as set forth in the grant agreement, the Secretary shall terminate the grant agreement whereupon no additional grant funds will be provided to the county college for the project.