

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

HIGHER EDUCATION

(a)

SECRETARY OF HIGHER EDUCATION

Licensure Rules

Proposed Repeal and New Rule: N.J.A.C. 9A:1-6.2

Proposed New Rules: N.J.A.C. 9A:1-2.10 through 2.14, 6.3, 6.4, and 9

Proposed Amendments: N.J.A.C. 9A:1-1.2, 1.3, 2.3, 2.9, 5.1, and 5.3

Authorized By: Brian Bridges, Secretary of Higher Education.

Authority: P.L. 2021, c. 27; and N.J.S.A. 18A:3-15.3, 18A:3B-8, 18A:3B-14, 18A:3B-15, 18A:3B-63, 18A:3B-65, 18A:3B-67, 18A:3B-97, and 18A:68-3.

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

Proposal Number: PRN 2021-110.

Submit comments by January 14, 2022, to:

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 18A:3B-14, the Secretary of Higher Education's (Secretary) licensure rules, N.J.A.C. 9A:1, set forth the standards that an institution or other entity seeking to offer academic credit-bearing courses or academic degree programs must meet to qualify for a license. P.L. 2021, c. 27, enacted on March 1, 2021, and effective September 1, 2021, authorizes the Secretary to promulgate new rules and amendments for the following standards: 1) the evaluation of new academic degree programs; 2) the review of branch campus plans; and 3) the receipt and maintenance of institutional plans in relation to closure, including those requested by the Secretary in regard to what appears to be an imminent threat of closure.

Accordingly, the Secretary, in consultation with the New Jersey Presidents' Council (NJPC), proposes amendments at Subchapter 1, new rules and amendments at Subchapter 2, amendments at Subchapter 5, new rules and amendments at Subchapter 6, and a new Subchapter 9 to effectuate the provisions of P.L. 2021, c. 27.

In addition to the rules proposed to implement the new statutory requirements noted above, the Secretary, upon the recommendation of the New Jersey Council of County Colleges (NJCCC), and after review by

the NJPC, proposes amendments at Subchapter 2 of the licensure rules to lower the minimum number of general education credits required for an associate in arts degree. Furthermore, the Secretary, upon the recommendation of the NJPC, also proposes amendments to the rules that govern the licensure of out-of-State institutions at Subchapter 5, which will make the use of an external consultant reviewer mandatory, except in very narrowly defined circumstances where a currently licensed out-of-State institution seeks to add only additional courses to the New Jersey-based offerings.

Pursuant to the enactment of P.L. 2021, c. 27, an administrative review of the existing rules at N.J.A.C. 9A:1 was conducted, along with an extensive consultation with institutions and institutional associations; this collaborative process resulted in these proposed amendments, new rules, and repeal.

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

Subchapter 1 contains definitions and presents general licensure standards in such areas as organization and administration, finance, faculty, libraries, student services, physical facilities, and official publications.

At N.J.A.C. 9A:1-1.2, Definitions, a number of new definitions are proposed to implement P.L. 2021, c. 27. The following new terms are defined: "additional location," "closure," "direct State support," "disorderly closure," "eligible transfer institution," "indirect State support," "institutional debt," "institutional financial aid agreement," "orderly closure," "program outcomes," "student," "student learning outcomes," "teach-out agreement," and "teach-out plan." In addition, the Secretary proposes that the existing definition for "branch campus," which relates to out-of-State or out-of-country branches be amended to be inclusive of in-State campuses to implement P.L. 2021, c. 27, § 4 (N.J.S.A. 18A:3B-65). A technical amendment is proposed to the definition of "President's Council."

At N.J.A.C. 9A:1-1.3, Licensure, it is proposed that subsection (k) be deleted because N.J.A.C. 9A:1-1.3(k) contains language addressing the closure of institutions of higher education, a subject that is proposed to be addressed at new Subchapter 9.

Subchapter 2 outlines general requirements and standards, such as credit minimums for programs at the various academic degree levels, general education requirements, and criteria for exceeding or changing the programmatic mission of an institution.

At N.J.A.C. 9A:1-2.3, Associate degree programs, upon recommendation of the NJCCC, it is proposed that the minimum general education credit hour requirement for the associate in arts (A.A) degree be adjusted from 45 semester credit hours (or equivalent) to 33 semester credit hours (or equivalent).

At N.J.A.C. 9A:1-2.9, Exceeding or changing programmatic mission, proposed new subsection (b) establishes that the proposed program evaluation standards authorized by the Secretary pursuant to P.L. 2021, c.

27, § 2, and as set forth below, will be applied by the Secretary when reviewing new academic programs that exceed the programmatic mission of an institution. The new subsection also creates a mechanism for the NJPC to review new academic programs that exceed the programmatic mission of an institution and make recommendations to the Secretary that are aligned with the proposed program evaluation standards authorized by the Secretary pursuant to P.L. 2021, c. 27, § 2. In addition, it is proposed that the current exceeding mission criteria at N.J.A.C. 9A:1-2.9(a) be relocated as new subsection (c), which would also contain language clarifying that the criteria described therein would be applicable, in addition to, the proposed review set forth at proposed N.J.A.C. 9A:1-2.9(b).

Proposed new N.J.A.C. 9A:1-2.10, Academic program review, is proposed to implement P.L. 2021, c. 27, § 1, and sets forth that the NJPC shall review new academic programs according to standards established by the Secretary for the following: 1) sufficient academic quality; 2) sufficient evidence of labor market demand; 3) duplication with comparable programs of study in the State; and 4) whether the proposed new program will require significant additional and undue State resources. The proposed new section also establishes that the NJPC shall refer any new academic program found to not meet any of the new standards to the Secretary, along with a written explanation and basis for the referral.

Proposed new N.J.A.C. 9A:1-2.11 sets forth criteria for the NJPC to apply to evaluate proposals for new academic degree programs for sufficiency of academic quality. The criteria include the current status of the proposing institution's State licensure and accreditation. In addition, the institution must provide evidence of appropriately qualified program staff; a plan to dedicate sufficient resources for the program; clearly stated program objectives; appropriate student learning outcomes; evidence of program rigor in the curriculum; evidence of employer input in the development of the program, where appropriate; evidence that demonstrates a commitment to equity, accessibility, and affordability within the new program; and a plan for continuous review and improvement of the new academic program.

Proposed new N.J.A.C. 9A:1-2.12, Sufficient labor market demand, would establish three separate methods of evaluation for the NJPC to use in determining sufficiency of labor demand for the proposed program. The first method proposed establishes a process where a proposed program will be automatically deemed to have shown sufficient labor market demand if the Classification of Instructional Programs (CIP) number for the program is mapped to a single occupation or set of occupations listed in the Standard Occupational Classification (SOC) and there is substantial evidence of labor market demand for the occupation or occupations derived from the New Jersey Department of Labor and Workforce Development. The second proposed method would evaluate the institution's evidence of: (1) increasing unmet labor market demand; (2) substantial employer engagement in the development of the program; and/or (3) evidence of strength at the institution in obtaining employment for its graduates. The third method would consider evidence that sufficient labor market demand for a proposed program exists on the basis of other forms of evidence than those specified in the second method, so long as the NJPC determines that there is insufficient data to apply either of the first two methods, but that there is evidence that the program will prepare and lead graduates to some form of specified employment.

Proposed new N.J.A.C. 9A:1-2.13, Duplication with comparable programs, sets forth the criteria for the NJPC to evaluate whether proposals for new academic degree programs are overly duplicative of existing programs. The rule requires new academic degree proposals to include a listing of all programs at the same degree level and in the same academic discipline that are currently offered in the State. Where other programs already exist, the rule would require the NJPC to evaluate whether a collaborative approach, such as articular agreements and joint degree programs, would be more cost effective. Next, the rule requires the NJPC to evaluate the proposal for evidence that the program is differentiated in at least one of four ways, including instructional differentiation, student population differentiation, projected student savings compared to current programs, or evidence of student or community demand for the program. Finally, the rule requires the NJPC to refer any program proposal that does not contain the forms of evidence noted above to the Secretary for review.

Proposed new N.J.A.C. 9A:1-2.14, Additional State resources, sets forth the criteria for the NJPC to apply in evaluating the proposal in relation to whether significant additional State resources are required for the program and whether, if they are required, the additional State resources would be unduly expensive to the State. In the event that NJPC does determine that significant additional State resources are required for the program, the rule requires the NJPC to determine if there is evidence that: (1) the program will either offset ongoing State support or become sustainable within five years; (2) there is an institutional plan for integrity and compliance monitoring; and (3) the institution can demonstrate the presence of adequate internal fiscal controls to prevent the misuse of State funding and government resources. Should the NJPC find that all three are present, the NJPC shall find that the significant additional State resources would not be unduly expensive for the State.

Subchapter 5 prescribes rules beyond those at Subchapter 1 for out-of-State institutions seeking approval to offer credit-bearing collegiate coursework in New Jersey. The requirements cover both initial and renewal licenses, petition procedures and contents, and petition review processes.

At N.J.A.C. 9A:1-5.1, Licensure required, proposed new subsection (d) clarifies, that upon a referral by the NJPC to the Secretary of a proposed academic degree program from an out-of-State institution pursuant to N.J.A.C. 9A:1-2.10, the Secretary shall review the referred program and shall issue a written determination as to whether or not the referred program meets the applicable program standards authorized by P.L. 2021, c. 27, § 1, and set forth at proposed new N.J.A.C. 9A:1-2.11, 2.12, 2.13, and 2.14.

At N.J.A.C. 9A:1-5.3, Review processes, upon recommendation of the NJPC, it is proposed that paragraph (a)2 be replaced to clarify that a review of the petition by the Office of the Secretary of Higher Education (OSHE) staff and the external consultant team shall occur as part of the licensure petition review process unless the exemption at proposed paragraph (a)3 is applicable. Proposed new N.J.A.C. 9A:1-5.3(a)3 sets forth the criteria that must be met for the Secretary to waive the consultant review for a petition.

Subchapter 6 addresses off-campus offerings by New Jersey colleges and universities. To implement the act, the Secretary proposes to repeal the existing branch campuses rule at N.J.A.C. 9A:1-6.2 and add new N.J.A.C. 9A:1-6.2, 6.3, and 6.4 addressing the three forms of branch campus review created by the act.

Proposed new N.J.A.C. 9A:1-6.2, Branch campuses established by a public research university or a State college within New Jersey, sets forth the plan requirements and review process for an in-State branch campus established by a public research university or a State college.

Proposed new N.J.A.C. 9A:1-6.3, Branch campuses and additional locations established by a public research university or a State college outside of New Jersey or outside of the United States, sets forth the plan requirements and review process for a branch campus or an additional location to be established by a public research university or a State college either in another state or outside of the United States.

Proposed new N.J.A.C. 9A:1-6.4, Branch campuses and additional locations established by an independent institution of higher education within New Jersey, sets forth the plan requirements and review process for a branch campus or additional location established by an independent institution of higher education within the State.

Proposed new Subchapter 9, Institutional Closure, implements P.L. 2021, c. 27, § 6 through 12 to set forth the procedures to be followed in regard to institutional closures.

Proposed new N.J.A.C. 9A:1-9.1, General procedures for institutional closure, implements the process required at P.L. 2021, c. 27, §§ 6 through 12. The regulation pertaining to closures at N.J.A.C. 9A:1-1.3(k) is relocated at N.J.A.C. 9A:1-9.1(a). The rule requires an institution that plans to cease operations, or whose license has been revoked, to submit a plan for institutional closure to the Secretary. The rule requires the closure plan to include: the expected date of closure; a plan for communicating to stakeholders; a plan for the transfer to and long-term maintenance of essential student records to a third party or parties; arrangements for the continued education of currently enrolled students through a teach-out agreement developed pursuant to proposed N.J.A.C. 9A:1-9.2 below, and evidence of communication with the New Jersey Higher Education

Assistance Authority and the U.S. Department of Education regarding the appropriate actions concerning state grants and scholarships, state loans, Federal grants and scholarships, and Federal loans, as applicable.

Proposed new N.J.A.C. 9A:1-9.2, Teach-out agreements, implements P.L. 2021, c. 27, § 9, and sets forth the mandatory requirements for a teach-out agreement, which is a written agreement between institutions that provides an opportunity for students to complete their program of study if one institution ceases to operate before all enrolled students have completed their program of study. The new rule would require that: (1) the teach-out agreement be arranged by the closing institution; (2) the teach-out agreement shall be agreed to by the transfer institution(s), the closing institution, and the Secretary; and (3) the teach-out agreement shall specify that, on request by a student affected by the closure, the closing institution shall provide a complete academic record and an official transcript to the student at no cost to the student. In addition, the rule requires that, unless waived for good cause by the Secretary, the eligible transfer institution(s) must be located within a reasonable distance of the closing institution, accept the transfer of all completed credits from students affected by the closure, and allow a student affected by the closure to complete the student's program with substantially the same number of credit hours as was required by the closing institution.

Proposed new N.J.A.C. 9A:1-9.3, Teach-out plan requirements for proprietary institutions, implements the portion of the act requiring proprietary institutions to submit to the Secretary a plan that addresses a potential closure of the institution. The rule establishes that: (1) all proprietary institutions shall submit a plan to the Secretary, regardless of whether the institution is actually facing a potential closure; (2) the plan shall be updated as required by the Secretary; and (3) the plan shall contain all of the institutional closure plan items as set forth at proposed N.J.A.C. 9A:1-9.1. The rule also sets forth that the plan must contain a number of required statements, including: a statement that the institution shall make all reasonable efforts to ensure that any closure of the institution complies with the requirements at P.L. 2021, c. 27, §§ 9 through 12; a statement that the chief executive officer and the members of the governing body of the institution were not previously in an executive position or a member of a governing body of an in-State institution in which a disorderly closure occurred; and a statement that any institutional financial aid agreement offered to a student shall contain language stating that, in the event of a disorderly closure, the debt owed by the student to the institution shall be void and shall not be recovered, collected, or enforced.

Proposed new N.J.A.C. 9A:1-9.4, Contingency plan for closure, requires independent institutions to submit a contingency plan for closure to the Secretary if the Secretary has determined that the institution is at risk of imminent closure. The rule establishes that the plan shall contain: all of the institutional closure plan items as set forth at proposed N.J.A.C. 9A:1-9.1; information about the rights and responsibilities of student loan borrowers; information about the institution's financial condition, accreditation status, and any outstanding compliance issues regarding Federal and State student aid programs, and confirmation that the institution has obtained either a surety bond or letter of credit to refund student enrollment deposits and to pay the cost to maintain student records by a third-party or parties.

Social Impact

The proposed new rules, repeal, and amendments establish criteria and processes to ensure that any institution (public, private nonprofit, or proprietary) offering college-level coursework in New Jersey, whether incorporated in the State, or not, meets standards of quality. Application of the standards protects the citizens of New Jersey, individuals attending college or university in New Jersey, and employers. The proposed new rules, repeal, and amendments contribute further to the quality of higher education, clarify standards to make compliance more effective, and in specific instances, will improve higher education outcomes in New Jersey.

Economic Impact

The proposed new rules, repeal, and amendments have no direct economic impact on New Jersey or the State's higher education institutions. One indirect impact flows from the fact that to meet the requirements set forth in the rules, institutions must allocate resources (employees, materials, equipment, etc.) to ensure compliance with the standards. The cost of such compliance varies from institution to

institution and within a particular institution, depending on the area involved, but may not always represent additional cost. Another indirect impact may be that the implementation of program review standards for duplicative programs and unduly expensive programs may result in savings to the State budget by reducing the number of expensive and unnecessary programs. Finally, the alignment of new academic programs with standards for sufficient academic quality and sufficient labor market demand may result in improved employment and workforce development outcomes for the State.

Federal Standards Statement

The proposed new rules, repeal, and amendments are not subject to a Federal standards analysis under Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 et seq., because the licensure function of the Secretary of Higher Education is not subject to any Federal requirements or standards.

Jobs Impact

The proposed new rules, repeal, and amendments are not expected to result in the generation or loss of any jobs.

Agriculture Industry Impact

The proposed new rules, repeal, and amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The proposed new rules, repeal, and amendments affect some proprietary and private nonprofit institutions in the State with fewer than 100 full-time employees. These are small businesses, as defined at N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. Currently, between 30 and 35 colleges in the State meet this definition; others may seek licensure in the future. The rules require such schools to meet certain criteria to ensure the quality of the college-level education they offer. In order to meet these criteria, the school must allocate resources to ensure compliance with the standards; the cost of compliance varies, but may not always represent additional cost, as discussed in the Summary above. No professional services need be employed to comply with the proposed new rules, repeal, and amendments. The schools meeting the definition of small businesses are held to the same standards as other colleges offering similar instruction. The standards cannot be lessened for small businesses without seriously diluting the quality of the college-level education offered by those institutions. Therefore, no differing standards based on business size are offered.

Housing Affordability Impact

The proposed new rules, repeal, and amendments do not affect housing affordability because the rules establish criteria and processes to ensure that any institution (public, private nonprofit, or proprietary), whether incorporated in the State or not, offering college-level coursework in New Jersey meets standards of quality and there is an extreme unlikelihood that the rules will evoke a change in the average costs associated with housing.

Smart Growth Development Impact

The proposed new rules, repeal, and amendments are not likely to have any impact on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules govern the licensure of institutions of higher education.

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 rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 9A:1-6.2.

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

SUBCHAPTER 1. GENERAL STANDARDS

9A:1-1.2 Definitions

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

... **“Additional location”** means a location, other than a branch campus, that is geographically apart from the main campus and at which the institution physically offers at least 50 percent of an educational program.

... **“Branch campus”** means a physical facility [for a State college or a State university located out of-State or out-of-country at a place other than the] located at a place other than the institution’s principal campus offering one or more complete programs leading to a degree.

... **“Closure”** means the cessation of operations by an institution of higher education, or a proprietary institution licensed to offer academic degrees.

... **“Direct State support”** means monetary funds or other forms of material support that are provided directly to an institution by an instrumentality of the State. Direct State support includes, but is not limited to, appropriations and bond funds that have been directed to an institution by an instrumentality of the State.

... **“Disorderly closure”** means a closure that does not meet the requirements at P.L. 2021, c. 27.

... **“Eligible transfer institution”** means an institution of higher education or a proprietary institution licensed to offer academic degrees that has been approved by the Secretary pursuant to P.L. 2021, c. 27.

... **“Indirect State support”** means monetary funds or other forms of material support that are provided by an instrumentality of the State, but are not directed to the recipient institution by an instrumentality of the State. Indirect State support includes, but is not limited to, State student assistance grant and scholarship programs that have been directed to an institution by a student.

... **“Institutional debt”** means: (1) the amount outstanding on any credit, including unpaid charges, extended by or on behalf of an institution of higher education or a proprietary institution licensed to offer academic degrees that a student is obligated to repay, whether the amount has been reduced to a judgment or the institution classifies it as a loan; or (2) a non-Federal loan or debt agreement that is issued expressly for postsecondary education expenses and that is guaranteed by an institution of higher education or a proprietary institution, or a private educational lender that is affiliated with an institution of higher education or proprietary institution.

... **“Institutional financial aid agreement”** means any contract, promissory note, part of an enrollment agreement, or other agreement in which a student agrees to pay an institutional debt.

... **“Orderly closure”** means a closure that meets the requirements at P.L. 2021, c. 27.

... **“Presidents’ Council”** means the New Jersey Presidents’ Council, a statutory body established pursuant to N.J.S.A. [18:3B]18A:3B-7.

... **“Program outcomes”** means the broad set of goals identifying the comprehensive integration of skills, abilities, knowledge, or values gained that students should be able to demonstrate upon completion of an academic degree program.

... **“Student”** means an individual enrolled at an institution of higher education or a proprietary institution licensed to offer academic degrees in New Jersey, or a New Jersey resident enrolled at an institution of higher education or proprietary institution located outside of this State.

“Student learning outcomes” means specific statements describing measurable skills, abilities, knowledge, or values that students should be able to demonstrate in order to show their achievement and mastery, upon the successful completion of a college credit-bearing course.

“Teach-out agreement” means a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study if an institution, or an institutional location that provides 100 percent of at least one program offered, ceases to operate before all enrolled students have completed their program of study.

“Teach-out plan” means a written plan developed by the institution that provides for the equitable treatment of students if an institution, or an institutional location, ceases to operate before all students have completed their program of study, and may include, if required by the institution’s accrediting agency, a teach-out agreement between institutions.

9A:1-1.3 Licensure

(a)-(j) (No change.)

[(k) An institution that decides to voluntarily cease operations or whose licensure has been revoked shall inform the Secretary immediately of the following:

1. The planned date of termination of operations;
2. The planned date and location for the transfer of student records;
3. The name and address of the organization to receive and manage the student records and the name and contact information of the office or official who is designated to manage transcript requests;
4. Arrangements for the continued education of currently enrolled students via teach-out agreement or other practical solution; and
5. Evidence of communication with the New Jersey Higher Education Student Assistance Authority and the U.S. Department of Education regarding the appropriate actions concerning state grant and scholarships, state loans, Federal grants and scholarships, and Federal loans as applicable.]

Recodify (l)-(n) as (k)-(m) (No change in text.)

SUBCHAPTER 2. DEGREE STANDARDS AND PROGRAMMATIC MISSION

9A:1-2.3 Associate degree programs

(a) (No change.)

(b) The associate in arts (A.A.) degree nomenclature is appropriate for programs in the liberal arts, humanities, or fine and performing arts; such programs are transfer-oriented. For A.A. degrees, general education courses should total no fewer than [45] 33 semester credit hours or the equivalent.

(c)-(e) (No change.)

9A:1-2.9 Exceeding or changing programmatic mission

(a) Licensed New Jersey institutions wishing to exceed their programmatic mission must receive approval from the Secretary to offer each program that exceeds the level of academic degrees that the institution is authorized to grant. [Requests]

(b) Upon referral of a request to exceed programmatic mission by the Presidents’ Council, the Secretary shall review the program proposal and determine whether all the standards for new academic programs at N.J.A.C. 9A:1-2.10(a) have been met. The Secretary shall consider any recommendations submitted with the referral by the Presidents’ Council when making the determination on the request to exceed programmatic mission.

(c) In addition to the review at (b) above, requests to exceed an institution’s programmatic mission shall be evaluated based on the following criteria:

1.-8. (No change.)

[(b)] (d) If an institution has received approval to exceed its programmatic mission for a particular degree level at least five times, the Secretary may, at the request of the institution, authorize a change to the institution’s programmatic degree level in order to allow the institution to offer new degree programs at the particular degree level for which the five

previous exceeding mission approvals have been granted. Institutions wishing to change their programmatic mission prior to having received such specific program approvals shall follow the procedure set forth [(c)] at (e) below.

[(c)] (e) (No change in text.)

9A:1-2.10 Academic program review

(a) The Presidents' Council shall review proposals for new academic degree programs that do not exceed the programmatic mission of the institution according to the following standards:

1. Sufficient academic quality as set forth at N.J.A.C. 9A:1-2.11;
2. Sufficient evidence of labor market demand for the program as set forth at N.J.A.C. 9A:1-2.12;
3. Duplication with comparable programs of study in the State as set forth at N.J.A.C. 9A:1-2.13; or
4. Whether the proposed new program will require significant additional State resources as set forth at N.J.A.C. 9A:1-2.14.

(b) If, upon review, the Presidents' Council determines that a program may be of insufficient academic quality, may lack sufficient evidence of labor market demand, may be duplicative of comparable programs of study, or may be unduly expensive, the Presidents' Council shall refer the program to the Secretary for review pursuant to P.L. 2021, c. 27. Any such referral of a program shall:

1. Identify the standard or standards that have not been met;
2. Identify the specific criteria within each standard that have not been met; and
3. Provide a written description of the basis of each determination by the Presidents' Council that a standard or criteria has not been met.

9A:1-2.11 Sufficient academic quality

(a) The Presidents' Council shall evaluate proposals for new academic degree programs for sufficiency of academic quality based on the following criteria:

1. The status of the institution's State licensure and accreditation by a nongovernmental entity recognized by the U.S. Secretary of Education;
2. Appropriately qualified faculty, instructors, staff instructors, and/or administrators;
3. A plan for the dedication of sufficient resources, including human resources, to implement and maintain the program;
4. Clearly stated program objectives that are related to the institutional mission, strategic plan, and, where appropriate, to the careers, professions, or practices into which graduates of the program are expected to enter;
5. Appropriate student learning outcomes that incorporate:
 - i. Appropriate scaffolding to allow students to build on knowledge as they progress through curriculum; and
 - ii. A variety of assessments and corresponding rubrics for students to demonstrate content mastery and skill acquisition;
6. Evidence of program rigor in the curriculum. To demonstrate rigor in the curriculum, institutions shall provide the following in the proposal:
 - i. Program outcomes detailing what students will be able to demonstrate at completion of the curriculum;
 - ii. Planned curriculum with course descriptions, including a plan to provide students access to faculty, instructors, and/or staff; and
 - iii. Comparisons to the curricula of the same or similar programs at other institutions, if applicable, and if such curricula are available;
7. Evidence of employer input in the development of the new program, where appropriate, which may include:
 - i. Participation of employers on advisory committees;
 - ii. Letter of support from a chamber of commerce demonstrating the need and desire for the program;
 - iii. Summary of employer or professional association feedback on the new program proposal and institution's response to the feedback;
 - iv. Evidence of employer/institution partnership agreements to provide research, experiential learning, or other equivalent opportunities to students in the program;

v. Survey results from employers in the field highlighting the skills and expertise needed with a clear connection to the program proposal;

vi. Plan to ensure continued partnership with employers in the field for the new program proposed; and/or

vii. Other documentation of direct employer or industry participation in the design of the program;

8. Evidence that demonstrates a commitment to equity, accessibility, and affordability within the new program, which may include:

i. A program equity statement for the program/field that is supported by evidence of an institution's demonstrated commitment to and valuing of diversity, equity, and inclusion. Evidence may include, but is not limited to, equitable enrollment and employment outcomes for historically underrepresented groups;

ii. A plan to monitor student progress in the program in order to address unanticipated or unknown barriers to equitable program completion outcomes; and/or

iii. A plan to provide student services and accommodations to support equitable program completion outcomes; and

9. A plan for continuous review and improvement of the new academic program. Such plan shall include the following:

i. The primary activities within the program that are to be reviewed, including how the program will adapt for new technology and developments within the field;

ii. Regularly scheduled time periods/intervals for review;

iii. Metrics for program monitoring and guidance for how the institution will course correct, if needed; and/or

iv. Input by students, field experts, and external reviewers in program review processes.

9A:1-2.12 Sufficient labor market demand

(a) The Presidents' Council shall evaluate proposals for new academic degree programs for sufficiency of labor market demand based on the following criteria:

1. A program proposal shall be deemed to have shown sufficient labor market demand for the program when the following apply:

i. The Classification of Instructional Programs (CIP) number for the program is mapped to a single occupation or set of occupations listed in the Standard Occupational Classification (SOC) as set forth in the 2020 CIP-SOC Crosswalk created by the Bureau of Labor Statistics and the National Center for Education Statistics, which is incorporated herein by reference, as amended and supplemented, and available at nces.ed.gov/ipeds/cipcode/Files/CIP2020_SOC2018_Crosswalk.xlsx; and

ii. The proposal contains evidence of substantial labor market demand for the occupation or occupations that are mapped to the program, as supported by documentation of demand from the New Jersey Department of Labor and Workforce Development.

2. A program proposal that does not meet the criteria at (a)1 above shall provide evidence for one or more of the criteria listed in this paragraph for the Presidents' Council to review and determine whether sufficient labor market demand exists:

i. Evidence of projected increasing demand in the careers, professions, or practices that graduates of the program are prepared to enter;

ii. Evidence that the current number of graduates from existing programs at other institutions in the State will not be adequate to meet the projected demand in the careers, professions, or practices that graduates of the program are prepared to enter;

iii. Evidence that the current profile of graduates from existing programs is not in accordance with the projected demand in the careers, professions, or practices that graduates of the program are prepared to enter;

iv. Evidence of substantial employer engagement, which may include, but is not limited to, program appraisal, program partnerships, and opportunities to review and comment on the program, in the development of program curriculum; or

v. Evidence of strength in the employment outcomes from current degree programs at the institution at the same academic degree level of the program.

(b) On the basis of evidence presented by the institution, the Presidents' Council may determine that sufficient labor market demand exists for a program proposal that does not meet either set of criteria at (a) above, if the Presidents' Council determines that:

1. There are insufficient data available to assess the program according to the criteria at (a) above;
2. There is sufficient evidence of preparation for a career, profession, or practice through the program; and
3. A majority of graduates from the program are reasonably likely to obtain employment, including self-employment, in the careers, professions, or practices indicated in the program proposal within 12 months of:
 - i. Graduation from the program; or
 - ii. The receipt of a terminal degree in a program sequence that includes the proposed program.

9A:1-2.13 Duplication with comparable programs

(a) A proposal for a new academic degree program that is for an academic degree program that is currently offered by other institutions in the State at the same degree level and in the same academic discipline shall include a listing of all currently offered programs at the same degree level and in the same academic discipline.

(b) Where a listing pursuant to (a) above is present, the Presidents' Council shall evaluate the proposal for excessive duplication with comparable programs and determine whether the proposal includes:

1. Evidence of a relevant relationship between the proposed academic degree program and the institutional mission or a specific area of institutional academic focus; and
2. Evidence that a collaborative approach with another institution of higher education that currently offers the program per the listing included with the proposal pursuant to (a) above, including, but not limited to, articulation agreements and joint degree programs, would not be cost effective or a feasible alternative to offering the proposed academic degree program.

(c) If the Presidents' Council finds that a program proposal meets the requirements at (b) above, the Presidents' Council shall determine whether the program is in the best interests of the State through a determination as to whether one or more of the following have been demonstrated:

1. Evidence of significant instructional differentiation from currently offered programs at other institutions in the State that are at the same degree level and in the same academic discipline;
2. Evidence of projected student population differentiation from currently offered programs at the same degree level and in the same academic discipline;
3. Evidence of projected sustainable cost savings for students compared with the cost of currently offered programs at the same degree level and in the same academic discipline; and
4. Evidence of student and community demand at the institution and in the region for the program, including, but not limited to, evidence that shows demand through:
 - i. Surveys or interviews of current students, faculty, and staff at the institution;
 - ii. Surveys or interviews of elected officials or other members of the institution's local community;
 - iii. Documented capacity constraints within currently offered programs at the same degree level and in the same academic discipline at other institutions; and
 - iv. Data on State and/or regional enrollment trends.

(d) A program proposal that does not meet the requirements at (b) or (c) above shall be referred by the Presidents' Council to the Secretary pursuant to N.J.A.C. 9A:1-2.10(b) as a program that may be duplicative of other programs in the State.

9A:1-2.14 Additional State resources

(a) The Presidents' Council shall evaluate proposals for new academic degree programs for whether significant additional State resources are required based on the following information:

1. The total of the projected budget for the proposed academic program that would be supported by either direct State support and/or indirect State support, including, but not limited to, State student assistance grant and scholarship programs;
2. The projected increase in direct State support to the institution due to the proposed academic program;
3. The projected increase in indirect State support to the institution due to the proposed academic program;
4. Any concurrent changes to the budget of the institution that may represent a projected reduction in State support to the institution; and
5. The anticipated length of time that any projected increases in State support would be required for the program.

(b) When the Presidents' Council has determined that a new academic program does require significant additional State resources, the Presidents' Council shall evaluate the proposal to determine whether the significant additional State resources would be unduly expensive to the State, based on the following information:

1. Evidence that the proposed academic program will:
 - i. Offset continued State support for the program through sustained increases to State revenue and any additional economic impact to the State generated by the program; and/or
 - ii. Become sustainable within five years in the absence of the significant additional State resources that were used to establish the program; and
2. The institutional plan for integrity and compliance monitoring, as well as internal fiscal controls, to prevent misuse of State funding and government resources.

SUBCHAPTER 5. OUT-OF-STATE INSTITUTIONS

9A:1-5.1 Licensure required

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

(d) Upon a referral by the Presidents' Council to the Secretary of a proposed academic degree program from an out-of-State institution pursuant to N.J.A.C. 9A:1-2.10, the Secretary shall review the referred program and shall issue a written determination as to whether or not the referred program meets the applicable program standards.

Recodify existing (d)-(f) as (e)-(g) (No change in text.)

9A:1-5.3 Review processes

(a) The following procedures apply to petitions from out-of-State institutions:

1. Upon receipt of the petition, OSHE staff shall provide to all New Jersey institutions a brief summary of the petition's content, along with information on how to obtain the petition from the OSHE website and an invitation to the institutions to submit their comments within 30 days after the notification regarding the out-of-State request.

[2. OSHE staff shall review the petition and any comments submitted by in-State institutions, usually with the assistance of an external consultant team that is mutually acceptable to the institution and the Secretary. As part of the review of the petition, OSHE staff may also conduct a site visit at the campus or proposed instructional site of the institution, usually with the assistance of the external consultant team.]

2. Except for the exemption detailed at (a)3 below, OSHE staff shall review the petition and any comments submitted by in-State institutions with the assistance of an external consultant team that is mutually acceptable to the petitioning institution and the Secretary. As part of the review of the petition, OSHE staff may also conduct a site visit at the campus or proposed instructional site of the institution with the assistance of the external consultant team.

3. OSHE may waive the requirement for an external consultant team to review a licensure petition if the following conditions apply:

- i. The out-of-State institution is currently licensed by the Secretary to offer academic degree programs or college credit-bearing courses in New Jersey;

- ii. The current licensure period is not an initial licensure period;
 - iii. The current licensure period is for a five-year period;
 - iv. For the current licensure period, the institution has undergone an OSHE-conducted licensure review with an external consultant team that included a site visit at the campus or proposed instructional site in New Jersey;
 - v. The institution is not seeking to renew the current licensure period; and
 - vi. The institution is only seeking licensure for additional college credit-bearing courses.
- Recodify existing 3.-4. as 4.-5. (No change in text.)

SUBCHAPTER 6. OFF-CAMPUS OFFERINGS

9A:1-6.2 Branch campuses established by a public research university or a State college within New Jersey

(a) Subject to the approval of the Secretary, the governing board of a public research university or a State college may establish a branch campus within the State.

(b) The governing board shall submit a plan for the branch campus to the Secretary that shall include the following:

- 1. A statement that explains the need for the branch campus or additional location;
- 2. A description of the proposed courses and programs that will be offered at the branch campus;
- 3. Evidence that the proposed courses or programs at the branch campus are at least equivalent in quality to comparable courses/programs on the main campus;
- 4. Evidence that the institution has provided for effective monitoring and controls to maintain quality;
- 5. Evidence of the dedication of sufficient resources to implement and maintain the branch campus without eroding the quality of ongoing programs and operations in the rest of the institution;
- 6. Information on the standards at N.J.A.C. 9A:1-1.5 through 1.12, with special attention to evidence that demonstrates that the classroom, laboratory, computing, and library facilities are adequate; the provisions for administration, support staff, and counseling are sufficient; and the qualifications of faculty are appropriate; and
- 7. A statement that the proportion of courses taught by full-time faculty at a branch campus are the same as on the main campus.

(c) Upon receipt of a plan submitted by the governing board of a public research university or a State college for a branch campus within the State, OSHE staff shall notify all New Jersey institutions of higher education of the receipt of the plan and shall provide each New Jersey institute of higher education with a brief summary of the plans, along with information on how to obtain the plan from the OSHE website. Each New Jersey institution of higher education will have 30 days from the notification date to submit to OSHE their comments. Comments should focus on how the institution would be affected by the proposed branch campus.

(d) If no concerns are raised about the plan, OSHE staff shall forward the plan directly to the Secretary for review and determination.

(e) If concerns are raised, OSHE staff shall send the plan and any related materials to the Presidents' Council for review. The Secretary will accept recommendations from the Presidents' Council in regard to the plan if the recommendations are submitted to OSHE within 60 days from the date of receipt by the Presidents' Council of the plan and any related materials.

(f) The Secretary shall consider the recommendations of the Presidents' Council when making a determination on the plan.

(g) Prior to a determination on the plan by the Secretary, OSHE staff may also conduct a review of the plan utilizing the assistance of an external consultant team that is mutually acceptable to the institution that submitted the plan and the Secretary.

9A:1-6.3 Branch campuses and additional locations established by a public research university or a State college outside of New Jersey or outside of the United States

(a) The governing board of a public research university or a State college that seeks to establish a branch campus or additional location

outside of the State or country that will serve at least 100 students of the institution shall submit a plan for the branch campus or additional location for review and approval by the Secretary.

(b) The plan for the branch campus or additional location shall include the following:

- 1. All of the information required pursuant to N.J.A.C. 9A:1-6.2(b)1 through 7;
 - 2. A description of the higher educational needs of the country or region in which the branch campus or additional location shall be located;
 - 3. A description of the proposed branch campus or additional location and its proposed programs and curriculum;
 - 4. An estimate of the cost of establishing and maintaining the branch campus or additional location, including the cost of any planned acquisition or construction of facilities;
 - 5. A statement that the branch campus or additional location will comply with the provisions of the Open Public Records Act, P.L. 1963, c. 73 (N.J.S.A. 47:1A-1 et seq.);
 - 6. Evidence that the branch campus or additional location serves a compelling State interest;
 - 7. Evidence that the branch campus or additional location does not impose excessive costs to the State. Such evidence may include, but is not limited to, the following:
 - i. Net cost to the State of the branch campus or additional location, including any long-term expenses;
 - ii. Any financial liabilities to the State that may be incurred as a result of the branch campus or additional location; and
 - iii. Information indicating that the financial sustainability of the branch campus or additional location would allow for it to continue operations year after year;
 - 8. Evidence that the branch campus or additional location does not impose reputational risk to the State. Such evidence may include, but is not limited to, an attestation that the applicant will continually notify the State of:
 - i. All major financial and governance transactions made between the institution and the out-of-State/out-of-country host;
 - ii. Any agreement(s) made between the institution and the out-of-State/out-of-country host in advance of the institution entering into such agreements;
 - iii. Any additional requirements imposed by the out-of-State/out-of-country host that are not already mandated by the State; and
 - iv. Any gifts received, including any gift that was later returned or any gift for which compensation was paid after receipt;
 - 9. Evidence that the branch campus or additional location does not impose a risk to the security interests of the State or Federal government. Such evidence may include, but is not limited to:
 - i. Documentation of pre-clearance from the United States Department of Homeland Security, along with a plan to comply with any requirements imposed by the United States Department of Homeland Security as a condition to the receipt of pre-clearance by the institution; and
 - ii. Documentation of pre-clearance from the New Jersey Office of Homeland Security and Preparedness, along with a plan to comply with any requirements imposed by the New Jersey Office of Homeland Security and Preparedness as a condition to the receipt of pre-clearance by the institution; and
 - 10. Documentation that all faculty and members of the professional staff not holding faculty rank performing services at a branch campus or additional location outside the State or country shall be paid and provided benefits in the same manner as all other employees of that institution within the State.
- (c) Upon receipt of a plan submitted by the governing board of a public research university or a State college for a branch campus or additional location outside of the State or country, OSHE staff shall notify all New Jersey institutions of higher education of the receipt of the plan and shall provide each New Jersey institute of higher education a brief summary of the plan along with information on how to obtain the plan from the OSHE website. Each New Jersey institution of higher education will have 30 days from the notification date to submit to OSHE their comments. Comments should focus on

how the institution would be affected by the proposed branch campus.

1. If no concerns are raised about the plan, OSHE staff shall forward the plan directly to the Secretary for review and determination.

2. If concerns are raised, OSHE staff shall send the plan and any related materials to the Presidents' Council for review. The Secretary will accept recommendations from the Presidents' Council in regard to the plan if the recommendations are submitted to OSHE within 60 days from the date of receipt by the Presidents' Council of the plan and any related materials.

3. The Secretary shall consider the recommendation of the Presidents' Council when making a determination on the plan.

4. Prior to a determination on the plan by the Secretary, OSHE staff shall also:

i. Conduct a review of the plan utilizing the assistance of an external consultant team that is mutually acceptable to the institution that submitted the plan and the Secretary;

ii. Solicit comments from additional interested parties, including, faculty and members of professional staff not holding faculty rank at the public research university or State college; and

iii. Conduct a site visit at the proposed site of the branch campus or additional location.

9A:1-6.4 Branch campuses or additional locations established by an independent institution of higher education within New Jersey

(a) The governing board of an independent in-State institution of higher education that seeks to establish a branch campus or additional location in the State that will serve at least 100 students of the institution shall submit a plan for the branch campus or additional location for review and comment by the Secretary. The plan for the branch campus shall include all the information required at N.J.A.C. 9A:1-6.2(b)1 through 7.

(b) The Secretary shall provide written comments on the plan to the independent institution within 60 days of the submission of the plan.

9A:1-[6.3]6.5 (No change in text.)

SUBCHAPTER 9. INSTITUTIONAL CLOSURE

9A:1-9.1 General procedures for institutional closure

(a) An institution that plans to cease operations or whose licensure has been revoked shall submit to the Secretary a plan for institutional closure, which must include the following:

1. The planned date of termination of operations;

2. A plan to continually notify relevant stakeholders of pertinent information related to the institution's closure as the information becomes available. Relevant stakeholders include, but are not limited to, the Secretary, enrolled students, admitted students, candidates who have submitted applications where no determination has been made, recent graduates, graduates that maintain institutional debt, faculty, staff, host communities, including the applicable municipal and county government(s), the elected State representative and senator in the legislative district where the institution is located, the chairpersons of the State Senate and Assembly Higher Education Committees, and the New Jersey Commissioner of the Department of Labor and Workforce Development;

3. A plan for the transfer and long-term maintenance of all essential records, particularly, but not limited to, academic records of current and former students, by a third-party or parties before the licensed institution ceases operations. Such a plan should include, at a minimum, the following:

i. The planned date and receiving location for the transfer of student records;

ii. The name and address of the third-party organization(s) or eligible transfer institution(s) to receive and manage the student records; and

iii. The contact information of the third-party official(s) who is/are designated to manage transcript requests.

4. Arrangements for the continued education of currently enrolled students through a teach-out agreement developed pursuant to N.J.A.C. 9A:1-9.2, or other practical solution; and

5. Evidence of communication with the New Jersey Higher Education Student Assistance Authority and the U.S. Department of Education regarding the appropriate actions concerning State grants and scholarships, State loans, Federal grants and scholarships, and Federal loans, as applicable.

9A:1-9.2 Teach-out agreements

(a) An institution shall enter into a school-to-school teach-out agreement at least 120 days prior to the cessation of institutional operations. This teach-out agreement shall:

1. Be arranged by the closing institution;

2. Be agreed to by an eligible transfer institution or institutions, the closing institution, and the Secretary;

3. Unless waived for good cause by the Secretary, specify that the eligible transfer institution(s) shall:

i. Be located within a reasonable distance of the closing institution, if the closing institution has a physical presence in the State;

ii. Accept the transfer of all completed credits from students affected by the closure; and

iii. Allow a student affected by the closure to complete the student's program with substantially the same number of credit hours as was required by the closing institution; and

4. Specify that, upon request by a student affected by the closure, the closing institution shall provide a complete academic record and an official transcript to the student at no cost to the student.

9A:1-9.3 Teach-out plan requirements for proprietary institutions

(a) A proprietary institution shall provide the Secretary a teach-out plan that addresses a potential closure of the institution. The teach-out plan shall be updated, as required by the Secretary, and shall include:

1. The requirements for a plan for institutional closure pursuant to N.J.A.C. 9A:1-9.1(a);

2. A statement that the institution shall make all reasonable efforts to ensure that any closure of the institution complies with the requirements at P.L. 2021, c. 27;

3. A statement that the chief executive officer and the members of the governing body of the institution providing the teach-out plan to the Secretary were not previously in an executive position or a member of a governing body of an institution in which a disorderly closure occurred; and

4. A statement that any institutional financial aid agreement offered to a student shall contain language stating that, in the event of a disorderly closure, the institutional debt shall be void and shall not be recovered, collected, or enforced.

9A:1-9.4 Contingency plan for closure

(a) If, pursuant to N.J.A.C. 9A:2-1, the Secretary determines that an institution is required to submit a contingency plan for closure to OSHE, the contingency plan for closure, shall include:

1. The requirements of a plan for institutional closure pursuant to N.J.A.C. 9A:1-9.1(a);

2. Information about the rights and responsibilities of student loan borrowers;

3. Information about the institution's financial condition, accreditation status, and any outstanding compliance issues regarding Federal and State student aid programs; and

4. Confirmation that the institution has obtained either a surety bond or letter of credit to refund student enrollment deposits and to pay the cost to maintain student records by a third-party or parties.