

CALIFORNIA STUDENT AID COMMISSION
P.O. Box 419029
Rancho Cordova, CA 95741-9029

**AMENDMENT TO TITLE 5, CALIFORNIA CODE OF REGULATIONS REGARDING,
CAL GRANT PROGRAM APPEAL PROCESS
(EDUCATION CODE SECTION 69432.7)**

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Student Aid Commission (Commission) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The Commission will hold a public hearing on Thursday, January 14, 2021, or as soon after that as business before the Commission will permit, via teleconference. Details about the hearing, including the meeting time, agenda items, staff presentation materials, and options to participate in the hearing by telephone or computer will be available prior to the hearing on the Commission's website at: <https://www.csac.ca.gov/commission-meeting-materials>

In accordance with the guidance from Executive Order N-29-20, a physical location will not be provided. Members of the public are strongly encouraged to participate using the teleconference phone number provided on the Commission website in the meeting agenda for the above-specified date so as to minimize the spread of COVID-19 and reduce the risk of infection during this current state of emergency. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

California Student Aid Commission
Attention: Gary Collord, Legal Services
P. O. Box 419026
Rancho Cordova, CA 95741-9026

Comments may also be submitted by facsimile (FAX) at (916) 464-8033 or by e-mail to Rulemaking@csac.ca.gov. The public comment period for this regulatory action will begin on November 27, 2020. Comments must be submitted before 5:00 P.M. on January 13, 2021 to be considered.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 69432.7 of the Education Code, the proposed regulations implement, interpret and make specific Sections 69432.7(3)(I)(iv)(I) and (II) of the Education Code. The Commission is considering changes to Division 4 of Title 5 of the California Code of Regulations to add an appeal process and appeal criteria for the Cal Grant Program as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Education Code Section 69432.7 was most recently amended by Assembly Bill 3255 (AB 3255), Chapter 505, Statutes of 2018. Education Code Section 69432.7 (I)(3)(I) provides that the Commission shall do the following relative to establishing an appeal process and appeal criteria for qualifying institutions participating in the Cal Grant Program:

Subsection (iv) (I)

Establish an appeal process for an otherwise qualifying institution that fails to satisfy the three-year cohort default rate and graduation rate requirements in subparagraphs (C) and (F), respectively.

Subsection (iv) (II)

The Commission may grant an appeal for an academic year only if the Commission has determined the institution has a cohort rate size of 20 individuals or less and the cohort is not representative of the overall institutional performance.

The proposed regulations contained in this document were developed to satisfy these provisions of the Education Code relative to establishing a Commission appeal process for qualifying institutions, and to clarify the conditions under which the Commission may grant an appeal. Specifically, these regulations will officially establish the Commission's appeal process and appeal criteria for qualifying institutions participating in the Cal Grant Program. The proposed regulation will streamline the appeal process and clarify eligibility conditions for institutions interested in filing an appeal with the Commission and clarify the conditions under which the Commission may grant an appeal.

Objectives and Benefits of the Proposed Regulation

The Commission is proposing to establish a voluntary appeal process and appeal criteria for qualifying institutions participating in the Cal Grant Program, as set forth in Education Code Section 69432.7 (I)(3)(I)(iv). The proposed regulations will add clarity and specificity to the Cal Grant Program by detailing the conditions and criteria, relative to cohort default and graduation rates, that are eligible for appeal; and clarify and streamline the process for filing an appeal with the Commission. The proposed regulation is designed to bring greater efficiency and transparency to the Commission's appeal process and improve the Commission's administration of the Cal Grant Program. The proposed regulation is necessary to specify the procedural and substantive requirements for the appeal process.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

After conducting a review for any related regulations in this area, the Commission has determined that no other regulations exist concerning a Commission appeal process (or other mechanism) to

potentially restore program eligibility for institutions participating in the State's Cal Grant Program. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on Local Agencies and School Districts: None

Fiscal Impact Estimates:

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

With respect to potential cost or savings to State agencies, the California Student Aid Commission will incur minor absorbable costs relative to preparing the proposed regulations and to process and consider eligible appeals filed by institutions. The lack of a formalized appeal process and appeal criteria obligated the Commission to consider appeals that did not meet the eligibility criteria of the Education Code, and for which the Commission was statutorily unauthorized to approve. This created added cost, as well as inefficient and unnecessary demands on the time and resources of Commission staff and the Commissioners. Thus, over time, the Commission expects to realize a net cost savings by adopting the proposed regulations.

Cost Impact on Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Other Business Impacts:

The Commission has determined the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal would impose no costs upon business. The proposal does not affect small businesses as defined by California Government Code Section 11342.610. This proposal would not affect private sector or small business as defined by California Government Code Section 11342.610.

Effect on Housing Costs: None

Cost or Savings in Federal Funding to the State: None

Results of the Economic Impact Analysis:

The Commission has determined that this regulatory proposal will not have any effect on the creation of jobs or new businesses, on the elimination of jobs or existing businesses, or on the expansion of businesses in the State of California. The regulation is not expected to adversely

affect or benefit California residents' health and welfare, worker safety, or the State's environment.

The proposed regulation clarifies and details the requirements and process for filing an appeal claim with the Commission by qualifying institutions participating in the Cal Grant Program. Filing an appeal under the proposed regulation is a voluntary option available to qualifying institutions. As such, the proposed regulation places no new or substantial requirements on businesses, or individuals within California.

FEDERAL MANDATE

There are no comparable provisions of federal law related to this proposal. The regulation would only apply in California and specifically to the Cal Grant Program and would neither affect nor conflict with any federal regulations or federal education programs. In accordance with the California Education Code, the regulation references and relies upon the same definition and methodology used by the Federal Department of Education to determine "cohort default rates" for institutions participating in the Cal Grant Program.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Commission invites interested parties to submit statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period or at the public hearing.

CONTACT PERSONS

Inquiries concerning the proposed adoption of the regulations and written comments may be directed to:

Gary Collord
California Student Aid Commission
11040 White Rock Road, Rancho Cordova, CA 95670
Telephone: (916) 347-0632
Fax: (916) 464-8033 Facsimile
Email: Rulemaking@csac.ca.gov

The back-up contact person for these inquiries is:

Julia Blair
California Student Aid Commission
11040 White Rock Road, Rancho Cordova, CA 95670
Telephone: (916) 464-8918
Fax: (916) 464-8033 Facsimile
Email: Rulemaking@csac.ca.gov

AVAILABILITY OF THE STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office listed at the address above. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of regulations, the initial statement of reasons, an economic and fiscal analysis, and other reference information upon which the proposed rulemaking is based. Copies may be obtained by making a written request to Gay Collord.

These documents may also be viewed and downloaded from the Commission's Web site at www.csac.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Gary Collard at the above address. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by making a written request to Gary Collord at the above address.

WEBSITE ACCESS

Materials regarding this proposal can be found at www.csac.ca.gov.