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Action Item

California Student Aid Commission

Consideration of adoption of amendments to regulations for Sections 30730-30736, Title 5, California Code of Regulations, Division 4, Chapter 1, to interpret and make specific sections 69999.10-69999.30 of the Education Code, implementing the California National Guard Education Assistance Award Program
(CNG EAAP)

The California National Guard Education Assistance Award Program (CNG EAAP) is a state-funded, competitive incentive program jointly administered by the California Student Aid Commission (CSAC) and the Military Department. The CNG EAAP provides funding for active members of the National Guard, the State Military Reserve, or the Naval Militia who seek a certificate, degree, or diploma that he or she does not hold at the time of application.

Program participants can receive up to the amount of the Cal Grant A award for attending the University of California or the California State University, up to the Cal Grant B award for attending a community college, up to the Cal Grant A amount for a student attending the University of California for a recipient attending a nonpublic institution, or up to the Cal Grant A award plus $500 for books and supplies for graduate studies. The number of awards issued shall be limited to the number authorized in the annual Budget Act, but in no event shall exceed 1,000 awards in any fiscal year.

This regulatory action makes technical changes in CNG EAAP regulations and specifies a renewal process for awards.

Tab 2.a provides background on the statute.

Tab 2.b – 2.e provides the text of the proposed CNG EAAP regulations, the Initial Statement of Reasons, the Final Statement of Reasons, the Notice of Proposed Rulemaking, and the Updated Informative Digest, respectively.

Recommended Action: Adopt proposed regulations and accompanying documents, request that the effective date of the regulations be the date of filing, and authorize staff to take the necessary steps to complete the regulatory process.

CSAC Responsible Person(s):	Catalina Mistler, Division Chief Program Administration & Services Division Gloria Falcon Program Policy and Development Kathy Spencer Program Policy and Development
National Guard Responsible Person(s):	Brig. General Mary J. Kight California National Guard LTC Thor Iljana California National Guard CPT Bevin Stokesberry California National Guard

CALIFORNIA NATIONAL GUARD EDUCATION ASSISTANCE AWARD PROGRAM (CNG EAAP)

Program Description

The California National Guard Education Assistance Award Program (CNG EAAP) is a state-funded, competitive incentive program jointly administered by the California Student Aid Commission (Commission) and the Military Department.

The CNG EAAP provides funding for active members of the National Guard, the State Military Reserve, or the Naval Militia who seek a certificate, degree, or diploma that he or she does not hold at the time of application.

Program participants can receive up to the amount of Cal Grant A award for attending the University of California or the California State University, up to the Cal Grant B award for attending a community college, up to the Cal Grant A amount for a student attending the University of California for a recipient attending a nonpublic institution, or up to the Cal Grant A award plus $500 for books and supplies for graduate studies. The number of awards issued shall be limited to the number authorized in the annual California Budget Act, but in no event shall exceed 1,000 awards in any fiscal year.

Background

The California National Guard performs an essential public purpose in protecting the health, safety, and property of California's citizens, and in order to fulfill its objectives, it is necessary for the California National Guard to have sufficient human resources to deal with a natural or human-caused disasters and emergencies. It is the intent of Legislature to provide an inducement to members of the California National Guard to maintain the required strength in the California National Guard.

Assembly Bill 12 was signed by the Governor and chaptered into law on July 28, 2009. It established the California National Guard Education Assistance Award Program (CNG EAAP) to be jointly administered by the Office of The Adjutant General and the Commission. Commission staff in consultation with the Military Department pursued the adoption of regulations to implement the program and make awards for the program beginning the winter and spring terms of the 2009-10 academic year.

The program requires participants to meet all of the eligibility criteria included in section 69999.16 of the Education Code prior to selection into the program. Applicants are required:

1. To be California residents;
2. To be an active member of, who has served two years in, the California National Guard, the State Military Reserve, or the Naval Militia;
3. To be accepted or registered at, or enrolled in a qualifying institution;
4. To submit a CNG EAAP application and agree to use the award to obtain a certificate, degree, or diploma that the applicant does not hold at the time the applicant applies for the award;

5. To agree to enroll in at least three academic units per semester or the equivalent; and
6. To submit a Free Application for Federal Student Aid (FAFSA) to the United States Department of Education.

The Adjutant General shall select recipients and the Commission is responsible for issuing awards. Costs incurred by the Commission for issuing and processing awards shall be reimbursed through an interagency agreement (IAA) from appropriations in the annual California Budget Act to the Military Department. The Commission approved the IAA on February 25, 2010.

Commission staff has drafted regulations to amend Title 5, Division 4, Chapter 1, of the California Code of Regulations, sections 30730-30736 to implement, interpret, and make specific the elements of the CNG EAAP, specifically, the inclusion of a renewal application. The California Military Department and the Department of Finance (DOF) were consulted on the amendments and modifications to the proposed regulations.

On July 28, 2010, Commission staff delivered a notice of proposed regulations and other required documents to the DOF for any cost bearing measures. The Commission has obtained all required approvals and signatures from DOF.

On August 9, 2010, Commission staff delivered a notice of proposed rulemaking, text of regulations, and other required documents to the Office of Administrative Law (OAL) to begin the regular rulemaking process.

On August 19, 2010, OAL approved the notice of proposed rulemaking and published the notice in the California Regulatory Notice Register which began the 45-day public comment period. The 45-day public comment period ended on October 4, 2010. Neither comments or changes to the proposed texted that was originally noticed to the public were made or received; therefore, no additional public comment period is required.

In prior years, Commission staff presented rulemaking documents to the Commission throughout the rulemaking process. Commissioners instructed Commission staff to only present rulemaking documents when they are ready for adoption.

OAL Regular Rulemaking Process

Regulations become permanent if the agency adopts the proposed regulations through the regular rulemaking process within the time period current regulations are in effect. Current CNG EAAP regulations were adopted by the Commission and were approved and filed with the Secretary of State on May 20, 2010.

If the proposed regulations are adopted by the Commission and submitted to OAL, OAL has 30 working days to review the package for approval. If approved, OAL submits the regulations to the Secretary of State for filing. Regulations normally become effective 30 days after the filing, unless the Commission requests that the regulations take effect on an earlier date. Commission staff recommends that the Commission request that the regulations take effect upon filing so that the regulations can be effective for the 2011-12 academic year.

CALIFORNIA STUDENT AID COMMISSION
P.O. Box 419029
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AMENDMENT TO TITLE 5, DIVISION 4, CHAPTER 1, CA CODE OF REGULATIONS REGARDING IMPLEMENTATION OF CALIFORNIA NATIONAL GUARD EDUCATION ASSISTANCE AWARD PROGRAM (Education Code §§ 69999.10-69999.30)

FINAL PROPOSED TEXT

Text to be added to the California Code of Regulations is displayed in <u>underline</u> type.

Text to be deleted is displayed in ~~strikeout~~ type.

Article 15. California National Guard Education Assistance Award Program

Section 30730. Definitions

"Academic Year" means:
(a) two semesters or three quarters or their equivalent within a 12-month period. An academic year may include a summer quarter in those colleges which maintain a summer quarter comparable to either the fall, winter or spring quarters; or
(b) a period of time usually eight or nine months during which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, or three quarters of instruction.
(c) July 1 to June 30 inclusive. The starting date of a session shall determine the academic year in which it is included.

"Active member" means a current member of the California National Guard, State Military Reserve, or the Naval Militia who meets military standards established by military regulations.

"Administrative appeal" means a formal request from the program participant to The Adjutant General requesting a change in withdrawal status based on an administrative error.

"Commission" means California Student Aid Commission.

"Cost of Attendance" means student budget at the qualifying institution for the participant that includes tuition, fees, housing, food, books, transportation and personal expenses for the year. It may also include an allowance for the rental or purchase of a computer, child care or other dependent care costs and additional expenses for students with disabilities not already covered.

"Disaster" means a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the Governor determines presents a threat to public safety. (California Government Code, Section 8680.3)

“Discretionary Summer Term” means a summer term for a program participant who is enrolled in a program that does not require summer term attendance in addition to all other terms.

“Eligible applicant” means a person who:

(a) Is a California resident pursuant to Education Code Section 68017 for at least one year immediately preceding the residence determination date;
(b) is an active member of, and has served two years in, the California National Guard, the State Military Reserve, or the Naval Militia that agrees to maintain active service throughout participation in program;
(c) has been accepted or registered at, or enrolled in, a qualifying institution;
(d) submits an application pursuant to Section 30731 and agrees to use the award to obtain a certificate, degree, or diploma that he or she does not hold at the time he or she applies for the award;
(e) agrees to enroll in at least three academic units per semester, or the equivalent;
(f) has submitted the Free Application for Federal Student Aid (FAFSA) to the United States Department of Education; and
(g) has not previously participated in the program and been withdrawn for not complying with applicable laws and regulations.

"Enrollment status" means full-time or part-time status:

(a) Part time, for purposes of program eligibility, is defined as less than 12 semesters units, inclusive, or the equivalent.
    (1) A participant enrolled for at least 9 semester units but less than12 semester units or the equivalent is considered 3/4 time.
    (2) A participant enrolled for at least 6 semester units but less than 9 semester units or their equivalent is considered 1/2 time.
    (3) A participant enrolled for at least 3 semester units but less than 6 units or the equivalent is considered 1/4- time.
(b) Full time, for purposes of program eligibility, is defined as 12 or more semester units or the equivalent.

“Excess Awards” means awards issued to eligible applicants after the deadline established by Section 30731 until all available awards are exhausted or the Adjutant General no longer has authority to make awards, which ever is earlier.

“Mandatory Summer Term” means a summer term for a program participant who is enrolled in a program that requires summer term attendance in addition to all other terms.

“Other natural causes” means a disease, or physical or mental condition involving inpatient care in a hospital or residential health care facility, or continuing treatment or continuing supervision by a health care provider, or family care and medical leave under Government Code section 12945.2 or the Family and Medical Leave Act of 1993.

“Program” means the California National Guard Education Assistance Award Program (CNG EAAP) established in Article 20.7 (commencing with Section 69999.10) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code and as set forth in this Article.

"Program Participants" means a person who has successfully met all of the requirements set forth in Education Code Sections 69999.16, who has been selected and certified by The Adjutant General, and who has accepted the award in terms of attending a qualifying institution to which that person has been admitted. The Adjutant General will send the program participant an acceptance letter informing the participant of acceptance into the program.

"Qualifying institution" means any of the following:

(a) Any California private or independent postsecondary educational institution that participates in the Pell Grant program and in at least two of the following federal campus-based student aid programs:
   (1) Federal Work-Study;
   (2) Perkins Loan Program;
   (3) Supplemental Educational Opportunity Grant Program.

(b) Any nonprofit institution headquartered and operating in California that certifies to the Commission that 10 percent of the institution's operating budget, as demonstrated in an audited financial statement, is expended for the purposes of institutionally funded student financial aid in the form of grants, that demonstrates to the Commission that it has the administrative capacity to administer the funds, that is accredited by the Western Association of Schools and Colleges, and that meets any other state-required criteria adopted by regulation by the commission in consultation with the Department of Finance. A regionally accredited institution that was deemed qualified by the Commission to participate in the Cal Grant Program for the 2000-01 academic year shall retain its eligibility as long as it maintains its existing accreditation status.

(c) Any California public postsecondary educational institution.

(d) The institution has a signed an Institutional Participation Agreement with the Commission.

"Residence determination date" means:

(a) If the governing board of a public institution has adopted by regulation or policy a residence determination date, that date shall be used for the CNG EAAP purposes; or

(b) The first day of instruction of the term for the academic year in which the student is enrolled as a CNG EAAP program participant shall be the residence determination date for the CNG EAAP purposes; or

(c) The date the Commission used to make the preliminary determination of California residency for purposes of offering a CNG EAAP shall be the residence determination date for the CNG EAAP purposes.

"Serious illness" means an illness involving inpatient care in a hospital or residential health care facility, or continuing treatment or continuing supervision by a health care provider, or family care and medical leave under Government Code section 12945.2 or the Family and Medical Leave Act of 1993.

Note: Authority cited: Section 69999.22, Education Code. Reference: Sections 69999.16, Education Code.

Section 30731. Application to Participate in the Program

(a) An initial a~~A~~pplication~~s~~ to participate in the program shall be submitted to the California Military Department by the January 22, 2010 deadline for the 2009-10 application year and each academic year thereafter by the June 15 deadline. The application~~s~~ shall include the following information regarding the applicant (Appendix A):

(1) Social Security number;
(2) Last name, first name and middle initial;
(3) Grade;
(4) Address;
(5) Years of Service in the California National Guard, State Military Reserve, or Naval Militia;
(6) Date of birth;
(7) Phone number;
(8) Currently accepted, registered at, or enrolled in:
  (A) Undergraduate;
  (B) Graduate Studies; or
  (C) Certificate / Diploma;
(9) E-mail Address;
(10) Identification of membership in ~~specific eligible military unit under~~ the California National Guard:
  (A) Army National Guard;
  (B) Air National Guard;
  (C) State Military Reserve; or
  (D) Naval Militia;
(11) Applicants desired Certificate/Degree/Diploma and expected completion date of Certificate/Degree/Diploma;
(~~11~~12) representation the applicant has been accepted or registered at, or enrolled in, a qualifying institution, the enrollment status of each term, the name of qualifying institution in which applicant has been accepted or registered at, or enrolled in, the institution's eight-digit Federal school code, and housing plans;
(~~12~~13) Certification if the applicant has completed the FAFSA for the application year;
(~~13~~14) The Applicant's award preference if eligible for both a Cal Grant Award and a CNG EAAP award;
(~~14~~15) The amount of funding the applicant will receive from the Federal Montgomery GI Bill for the academic year specifying amounts for each applicable term;
(~~15~~16) The amount of funding the applicant will receive from Federal Education Benefits program for veterans for the academic year specifying amounts for each applicable term;
(~~16~~17) Gender;
(~~17~~18) Ethnicity;
(~~18~~19) The applicant's representations that he or she:
  (A) will submit the FAFSA for the academic year he or she is applying for by the application deadline or, for applicants being considered for any excess

awards, that the FAFSA will be completed for the academic year he or she is applying for prior to being accepted into the program;

(B) agrees to use the award to obtain a certificate, degree, or diploma that he or she does not hold at the time he or she applies for the award;

(C) agrees to maintain enrollment in at least three (3) academic units per semester, or the equivalent;

(D) agrees to maintain a minimum of a 2.0 cumulative grade point average and enrollment in at a qualifying institution;

(E) understands program participants shall not receive disbursements from both a CNG EAAP award and any Cal Grant Award for the same academic year. A program participant who is also eligible for a Cal Grant Award must elect between an award under this program and any Cal Grant Award for the same academic year;

(F) is a currently an active member of, and has served two years in, the California National Guard, the State Military Reserve, or the Naval Militia and agrees to continue to be an active member of the California National Guard, State Military Reserve or the Naval Militia throughout the period that he or she participates in the program;

(G) agrees to comply with all applicable laws and regulations applicable to the program; and

(H) understands the funding appropriations are contingent upon approved California budget acts.

(~~19~~20)The applicant shall sign the application under penalty of perjury, under the laws of the State of California that all statements contained in the application and any accompanying documents are true and correct, with full knowledge that all statements made in the application are subject to investigation. Any false or dishonest answer to any question may be grounds for denial to participate in the program and subject to prosecution under the Uniform Code of Military Justice. The applicant authorizes the Commission and the California Military Department to receive and release any student records, and any application information between qualifying institutions and appropriate public and private agencies. The applicant will provide documentation to verify all information provided, if requested.

(b) The Commission will verify the applicant has submitted the FAFSA for the academic year he or she is applying for by the application deadline. If excess awards are made to applicants, the Commission will verify the applicant has submitted the FAFSA for the academic year he or she is applying for prior to being accepted into the program.

(c) Renewal application to continue participation in the program shall be submitted to the California Military Department by the June 1 deadline each academic year. The application shall include the following information regarding the program participant (Appendix C):

(1) Social Security Number;
(2) Last name, first name and middle initial;
(3) Grade;
(4) Address;
(5) Date of Birth;
(6) Phone Number;

(7) Currently accepted, registered, or enrolled in:
  (A) Undergraduate;
  (B) Certificate / Diploma;
  (C) Graduate Studies;
(8) E-mail Address;
(9) Identification of membership in the California National Guard;
  (A) Army National Guard;
  (B) Air National Guard
  (C) State Military Reserve; or
  (D) Naval Militia;
(10) Representation the program participant has been accepted or registered at, or enrolled in, a qualifying institution, the enrollment status of each term, the name of qualifying institution in which program participant has been accepted or registered at, or enrolled in, the institution's eight-digit Federal school code, and housing plans;
(11) Program participants desired Certificate/Degree/Diploma and expected completion date of Certificate/Degree/Diploma;
(12) Program participants preference if eligible for both a Cal Grant Award and a CNG EAAP award;
(13) Amount of educational benefits the program participant will receive from the Federal Montgomery GI Bill for the academic year by specific term;
(14) Amount the program participant will receive from Federal Educational Benefits program for veterans for the academic year by specific term;
(15) Program participants representations that he or she understands and agrees to:
  (A) submission of the CNG EAAP Renewal Application by the deadline of June 1 or may be withdrawn from the program;
  (B) use the award to obtain a certificate, degree, or diploma that he or she does not currently hold at the time of application renewal;
  (C) maintain enrollment in at least three (3) academic units per semester, or the equivalent thereof at an eligible institution;
  (D) maintain at least a 2.0 cumulative grade point average;
  (E) not receive disbursements from an award under the CNG EAAP and any Cal Grant Award for the same academic year. A program participant who is also eligible for a Cal Grant Award must elect between an award under this program and any Cal Grant Award for the same academic year;
  (F) remain an active member in the California National Guard, State Military Reserve or the Naval Militia throughout the period of participation in the CNG EAAP;
  (G) comply will all laws and regulations applicable to the CNG EAAP; and
  (H) understand the funding appropriations are contingent upon approved California budget acts.

Note: Authority cited: Section 69999.22, Education Code. Reference: Sections 69999.16, 69999.18, Education Code.

Section 30732. Applicant Priority

(a)The Adjutant General will annually identify the skills most needed by the California National Guard. The Adjutant General shall select applicants for participation in the program by giving priority to applicants who possess or seek to possess the skills most needed by the California National Guard.

(b) Pursuant to Military Department Regulations, The Adjutant General will appoint members to the board whose purpose is to recommend the best qualified service members to receive educational benefits from the California National Guard Education Assistance Award Program.

(1) The objectives of the board process are to:

(A) Ensure that the California National Guard retains its most competent and capable service members who possess the desired knowledge, skills and attributes;

(B) Prioritize applicants on the basis of criteria as directed by The Adjutant General in a letter of instruction to the board; and

(2) The board shall present for the approval by The Adjutant General, a prioritized listing of those applicants who qualify for an award.

Note: Authority cited: Section 69999.22 , Education Code. Reference: Section 69999.16, Education Code.

Section 30733. Selection by The Adjutant General

(a) The Adjutant General will select from among eligible applicants who submitted an application by the deadline established by section 30731.

(b) The Adjutant General will prioritize and certify the eligibility of applicants to the Commission.

(c) The Adjutant General will notify applicants of their selection or non selection for an award.

(d) If it is determined that a program participant is not able to utilize an award the next eligible applicant on the list may be given the award.

(e) If the maximum awards authorized for the academic year are not exhausted after the selection process is completed, the California Military Department may continue to accept applications after the deadline established by section 30731 until all awards are exhausted or The Adjutant General no longer has authority to make awards, which ever is earlier. Applicants being considered for excess awards must complete the FAFSA for the academic year he or she is applying for prior to being accepted into the program.

(f) The Adjutant General shall obtain the following information regarding selected participants from the CNG EAAP application and submit it to the Commission:

(1) Last name, first name and middle initial;

(2) Social Security number;

(3) Address and telephone number;

(4) Date of birth;

(5) Whether the program participant has been currently accepted to, registered, or enrolled in undergraduate, certificate/diploma, or graduate studies ;

(6) E-mail address;

(7) Name of qualifying institution in which applicant has been accepted or registered at, or enrolled in, the enrollment status of each term, the institution's eight-digit Federal school code, and housing plans;
(8) Amount of Federal Montgomery GI Bill benefits the applicant will received for the academic year;
(9) Amount of Federal Educational Benefits Programs for Veterans the applicant will receive for the academic year;
(10) Gender;
(11) Ethnicity;
(12)The Applicant's award preference if eligible for both a Cal Grant Award and a CNG EAAP award.

Note: Authority cited: Section 69999.22, Education Code. Reference: Sections 69999.16, Education Code.

Section 30734. Payments

(a) The Commission shall determine the payment amount for new and renewal participants each academic year. The Commission will request the following information from The Adjutant General, qualifying institution, and the program participant for the academic year:
(1) If a renewal program participant, The Adjutant General shall certify to the Commission the program participant maintained program eligibility and a minimum of a 2.0 cumulative grade point average.
(2) the following information shall be provided by the qualifying institution:
(A) the participant's cost of attendance for each term;
(B) Verification if the program participant maintained enrollment in at least 3 semester units or the equivalent each term in the prior academic year, if a renewal participant;
(C)Verification the program participant maintained a minimum of a 2.0 cumulative GPA, if a renewal participant;
(D) the participant's enrollment status per term for the current academic year;
(E) If the program participant is enrolled in graduate studies;
(F) If the program participant is enrolled in a program with a discretionary summer term or mandatory summer term.
(3) the following information shall be provided by the participant:
(A) The amount of educational benefits pursuant to the Federal Montgomery GI Bill the participant will receive for each term;
(B) The amount of any other federal educational benefits program for veterans the participant will receive for each term;
(C) The program participant's award preference if eligible for both a Cal Grant Award and a CNG EAAP award, if a renewal participant.
(b) The maximum amount a new or renewal program participant may be awarded is as follows:
(1) For program participants attending the University of California or the California State University, the Commission shall award, subject to the

requirements of section 30731, up to the maximum amount of the Cal Grant A as adjusted in the annual budget act;

(A) For program participants attending the University of California, the maximum Cal Grant A award shall equal the mandatory systemwide fees for that segment;

(B) For program participants attending the California State University, the maximum Cal Grant A award shall equal the mandatory systemwide fees for that segment;

(2) For program participants attending a community college, the Commission shall award, subject to the terms of section 30731, up to the maximum amount of the Cal Grant B award as adjusted in the annual budget act;

(A)The maximum Cal Grant B award shall equal the amount of the access Award;

(B) The access amount shall be in an annual amount not to exceed one thousand five hundred fifty-one dollars ($1551) or as adjusted in the annual budget act.

(3) For program participants attending a nonpublic institution, the Commission shall award subject to the terms of section 30731, up to the maximum amount of a Cal Grant A award for a student attending the University of California as adjusted in the annual budget act. The maximum amounts of a Cal Grant A award for a student attending a nonpublic institution equals the mandatory systemwide fees for a student attending the University of California; or

(4) For a program participant enrolled in graduate studies, the Commission shall award subject to the terms of section 30731, up to the maximum amount of a Cal Grant A award, plus five hundred dollars ($500) for books and supplies as adjusted in the annual budget act:

(A) For program participants enrolled in graduate studies at the University of California, the maximum Cal Grant A award shall equal the mandatory systemwide fees for that segment;

(B) For program participants enrolled in graduate studies at a California State University, the maximum Cal Grant A award shall equal the mandatory systemwide fee for that segment;

(C) For program participants enrolled in graduate studies at a non public institution, the maximum amounts of a Cal Grant A award equals the mandatory systemwide fees for the University of California.

(c) Payments shall be made per term to the qualifying institution, to be used for education related expenses. Each year, the Commission shall award either the maximum award amount or the remaining need, whichever is smaller using the following formula to determine the remaining need:

Cost of Attendance
Minus Federal Montgomery GI Bill
Minus Other Federal Benefits Programs for Veterans
Equals Remaining Need

(d) Whenever a program participant changes his or her choice of school, college or program, the program participant must notify the Commission of the change and the remaining need eligibility must be re-determined. Eligibility for additional funds will be contingent upon funds being available. Subject to such redetermination, a program participant may change his or her choice of college

(1) prior to the time of actual enrollment; or
(2) at the conclusion of a quarter or semester, provided that any loss of tuition and fee payments shall be borne by the student.

(e) A qualifying institution may submit a revised cost of attendance if changes make the participant eligible for additional funds. Eligibility for additional funds will be contingent upon funds being available.

(f) Any credit generated on the program participant's account due to a payment made by the Commission may be refunded to the student.

(g) Program participants will receive 400% eligibility. One hundred percent (100%) represents one year of full-time payment at a traditional term-based school (i.e. quarter or semester terms). Eligibility is used for each term the participant receives payment and the amount of usage is determined by the type of term and attendance status.

(1) Eligibility used for full-time enrollment:
(A) 50% of eligibility will be used for each full-term payment at a semester or trimester term school; or
(B) 33.33% of eligibility will be used for each full-time term payment at a quarter term school;

(2) Eligibility is adjusted for part-time attendance. The following is a breakdown of eligibility based on term type:
(A)Semester or Trimester
1. Three-quarter time 37.5%
2. Half-time 25%
3. Quarter-time 12.5%
(B) Quarter
1. Three-quarter time 25%
2. Half-time 16.67%
3. Quarter-time 8.33%

(3) Awards are automatically renewed each year for program participants who:
(A) The Adjutant General certifies eligibility;
(B) satisfy enrollment in the minimum number of credits each term;
(C) maintain a minimum of a 2.0 cumulative grade point average; and
(D) have remaining program eligibility.

(h) Program participants who accelerate college attendance, may increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation during discretionary summer terms, sessions, or quarters. Eligibility and receipt of additional funding for discretionary summer terms will be contingent upon funds being available. In the aggregate, the total amount a student may receive can not exceed the maximum amount of program eligibility as a result of accelerating his or her progress to a degree by attending discretionary summer terms.

(i) Program participants enrolled in institutions with a mandatory summer term, may increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation. In the aggregate, the total amount a student may receive can not exceed the maximum amount of program eligibility.

(j) If the program participant is eligible for payment at the time of disbursement, but drops units applicable to the payment received for a term, the program participant remains eligible for the entire payment, unless a refund is due based on the school's refund policy. If a refund is due, schools are responsible for repaying the Commission and reporting an adjusted payment transaction.

(k) If the program participant's tuition charges are reduced due to a drop in units, the qualifying institution shall submit an adjusted cost of attendance. The program participants remaining need will be re-determined and the award adjusted accordingly.

Note: Authority cited: Section 69999.22, Education Code. Reference: Sections 69999.16, 69999.18, 69999.20, Education Code.

Section 30735. Fifth Year Benefits

(a) Program participants enrolled in a Commission approved undergraduate, mandatory five-year program may be eligible to renew their CNG EAAP benefits for an additional year (100% eligibility). A mandatory five year program is one for which attendance beyond four years is required to meet the program's degree requirements. The student's course of study must require every participant in that major to complete more than four years of study for graduation. Students must submit a Request for California National Guard Education Assistance Award Program Fifth-Year Benefits (Appendix B). Eligibility and receipt for an additional year will be contingent upon funds being available.

Note: Authority cited: Section 69999.22, Education Code. Reference: Sections 69999.18 Education Code.

Section 30736. Failure to Comply with Applicable Laws and Regulations

(a) Except as otherwise specified in subsections (b)-(e), a program participant may be withdrawn from the program and the Commission shall not make any further payments if the program participant fails to meet the requirements for payment pursuant to the terms of the program, including:

(1) failure to maintain enrollment in at least three academic units per semester or the equivalent at a qualifying institution;
(2) failure to maintain a minimum of a 2.0 cumulative grade point average while attending a qualifying institution;
(3) loses status as a California resident;
(4) <u>failure to submit a renewal application each academic year except if the program participant has an approved leave of absence;</u>
(5) is in violation of the Commission regulations; or
(6) Failure to maintain active status in the California National Guard, State Military Reserve, or the Naval Militia.

(b) If a program participant is unable to maintain enrollment in at least three academic units per semester or the equivalent due to serious illness, pregnancy, other natural causes, or is called to active military duty status, the program participant shall submit a written request for a leave of absence and upon The Adjutant General's approval, shall be

excused from this requirement for a period not to exceed one calendar year, unless approved by The Adjutant General for a longer period of time. The Adjutant General may waive the written requirement due to state of emergency enacted or ordered by the Governor. The Commission shall make no further payments under the program until the applicable enrollment requirements specified have been satisfied and the program participant has submitted a renewal application.

(c) If a disaster prevents a program participant from maintaining enrollment, in at least three academic units per semester or the equivalent the program participant shall submit a written request for a leave of absence and upon The Adjutant General's Office approval, shall be excused from this requirement for a period not to exceed one calendar year, unless approved by The Adjutant General for a longer period of time. In a severe case of a disaster, The Adjutant General may wave the requirement for program participants to individually send in written requests for a leave of absence due to state of emergency enacted or ordered by the Governor of California. The Adjutant General may excuse participants from the enrollment requirement for a period not to exceed one calendar year, unless approved for a longer period of time. The Commission shall make no further payments under the program until the applicable enrollment requirements specified have been satisfied and the program participant has submitted a renewal application.

(d) If a program participant is unable to maintain enrollment in at least three academic units per semester or the equivalent due to reasons beyond the control of the program participant, the program participant shall submit a written request for a leave of absence and upon The Adjutant General's approval, shall be excused from this requirement for a period not to exceed one calendar year unless approved by The Adjutant General for a longer period of time. The Commission shall make no further payments under the program until the applicable enrollment requirements specified have been satisfied and the program participant has submitted a renewal application.

(e) At any point in the program, The Adjutant General may submit a list of program participants who no longer satisfy the requirements of the program to the Commission. The Commission shall make no further payments under the program and the participant shall be withdrawn.

(f) If a program participant is withdrawn, the individual may send in a written request for an administrative appeal to The Adjutant General that describes why he or she should be reinstated into the program along with supporting documentation, if applicable, showing that he or she has continually met program eligibility. If The Adjutant General determines the program participant should not have been withdrawn, the individual's program benefits shall be reinstated. The program participant will not be eligible for any benefits for awards years that are closed.

Note: Authority cited: Section 69999.22, Education Code. Reference: Sections 69999.16, 69999.18, Education Code.

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

AMENDMENT TO TITLE 5, DIVISION 4, CHAPTER 1, CA CODE OF REGULATIONS REGARDING CALIFORNIA NATIONAL GUARD EDUCATION ASSISTANCE AWARD PROGRAM (EDUCATION CODE SECTIONS 69999.10-69999.30)

INITIAL STATEMENT OF REASONS

INTRODUCTION

Based on the authority provided in Education Code Section, 69999.22, the Commission adopted California Code of Regulations Title V, Division 4, Chapter 1 Sections 30730 et seq. to implement, interpret, and construct the requirements established in Education Code Sections 69999.10 through 69999.30. Regulations were approved by the Office of Administrative Law (OAL) and filed with the Secretary of State's Office on May 20, 2010.

The Legislature's stated intent for the CNG EAAP is to provide an inducement to members of the California National Guard to maintain the required strength in the California National Guard. This is a state-funded program designed to provide an educational incentive to improve skills, competencies, and abilities for service members to remain active in the California National Guard, the State Military Reserve, or the Naval Militia. The Office of the Adjutant General may select up to 1,000 participants for the program. This program authorizes the Commission to make payments to eligible program participants who attend Cal Grant participating institutions.

The Commission proposes to amend sections to specify additional information that will be requested from applicants on the initial application, clarification to applicants and renewal participants that there are two (2) distinct and different applications for the program, establish a renewal application and deadline for the submission of the renewal application, clarify the term for reporting veteran's educational benefits, clarify understanding that disbursements can not be received for both the CNG EAAP and Cal Grant award for the same academic year, and the result if the program participant fails to meet the requirements of submitting a renewal application. The proposed amendment clarifies the applicant understands the statutory requirement of two years active membership in the California National Guard, the State Military Reserve, or the Naval Militia is necessary.

The proposed regulations implement, interpret, and specify the requirements established in Education Code Sections 69999.10-69999.30.

The specific purpose of the proposed adoption and each amendment, and the rationale for the determination that the adoption and each amendment is reasonably necessary to carry out the purpose for which it is proposed, is as follows:

ARTICLE 15 - CALIFORNIA NATIONAL GUARD EDUCATION ASSISTANCE AWARD PROGRAM (CNG EAAP)

SECTION 30731 – Application to Participate in the Program

Proposed Amendment to Section 30730(a) establishes the identification of an initial application and applicants desired certificate, degree and/ or diploma and expected completion date of the desired certificate, degree and/or diploma. The proposed amendment additionally clarifies the time element for specifying amount for reporting veteran's educational benefits. The proposed amendment clarifies that the applicant represents that he or she understands program participants shall not receive disbursements from both a CNG EAAP award and any Cal Grant Award for the same academic year. Finally, the proposed amendment requests that the applicant represent they understand there is a requirement of being an active member for two years at the time of submission of the initial application to participate.

The proposed changes are necessary for clarification to applicants and renewal participants that there are two (2) distinct and different applications for the program, clarification of the time element for reporting veteran's educational benefits so that payments can be calculated correctly as specified in Education Code Section 69999.18, and clarification that disbursement can not be made from both the CNG EAAP and Cal Grant Programs. Applicants are able to receive awards from both programs just not disbursements from both programs in the same academic year. The amendment to include the applicant understands the two years active membership is necessary due to a large amount of applications received that did not meet this statutory requirement.

Proposed Adopted Section 30731(c) establishes the renewal application, specifies the content of a renewal application, and establishes a deadline for the submission of the renewal application for continued participation in the program**.** Additionally, the renewal application informs the current program participant the potential of being withdrawn from the program should the renewal application not be submitted by the imposed deadline.

The renewal application is necessary for the Commission and the Military Department to identify and contact each participant continuing in the program. Additionally, the requested information will be used as an indicator for program funding projections and program participation limits set forth in statute.

SECTION 30736 – Failure to Comply with Applicable Laws and Regulations

This section specifies the consequences of a program participant's failure to comply with the program requirements.

Proposed Amendment to Section 30736 (a) establishes that a program participant who fails to meet the conditions of submitting a renewal application each academic year may be withdrawn and the Commission shall not make any further payments.

This amendment is necessary to clarify the consequences of a program participant's failure to satisfy the program requirements of submitting a renewal application annually.

Proposed Amendment to Section 30736 (b) establishes the program participant that has been excused from the minimum enrollment requirement upon approval from The Adjutant General submit a renewal application and comply with applicable enrollment requirements if the Commission is to resume payments under the program.

This amendment to this section is necessary to establish the requirement for the renewal application that will be used as an indicator for program projections and program participation limits set forth in statute.

Proposed Amendment to Section 30736 (c) establishes that the program participant that has been excused from the minimum enrollment requirement upon The Adjutant General's if a disaster prevents a program participant from maintaining enrollment submit a renewal application and comply with applicable enrollment requirements if the Commission is to resume payments under the program.

This amendment to this section is necessary to establish the requirement for the renewal application that will be used as an indicator for program projections and program participation limits set forth in statute.

Proposed Amendment to Section 30736 (d) establishes that the program participant that has been excused from the minimum enrollment requirement upon The Adjutant General's approval if a program participant becomes unable to meet the conditions for payment due to reasons beyond the control of the program participant submit a renewal application and comply with applicable enrollment requirements if the Commission is to resume payments under the program.

This amendment to this section is necessary to establish the requirement for the renewal application that will be used as an indicator for program projections and program participation limits set forth in statute.

FINAL STATEMENT OF REASONS
And
SUMMARY AND RESPONSE TO COMMENTS RECEIVED

OAL File Number: Z-2010-0809-01

California National Guard Education
Assistance Award Program
(CNG EAAP)

Final Rulemaking File

UPDATE OF INITIAL STATEMENT OF REASONS
There have not been any post notice modifications or changes to the proposed text as originally noticed to the public on August 20, 2010.

LOCAL MANDATE DETERMINATION
The proposed regulations do not impose any mandate on local agencies or school districts.

ALTERNATIVES DETERMINATION
The California Student Aid Commission has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation.

COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF AUGUST 20, 2010 THROUGH OCTOBER 4, 2010
The originally proposed text was made available for public comment for at least 45 days from August 20, 2010 through October 4, 2010. There were no comments received during the 45-day public comment period. No changes where made to the proposed regulations that was originally noticed on August 20, 2010.

ECONOMIC IMPACT ON SMALL BUSINESS
Proposed regulation does not economically impact small businesses.

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

AMENDMENT TO TITLE 5, CA CODE OF REGULATIONS REGARDING CALIFORNIA NATIONAL GUARD EDUCATION ASSISTANCE AWARD PROGRAM (CNG EAAP) (EDUCATION CODE 69999.10 *et seq.)*

NOTICE OF PROPOSED RULEMAKING

NATURE OF PROCEEDING

Notice is given that the California Student Aid Commission (Commission) is proposing to take the action described in the Informative Digest.

A public hearing regarding this proposal is currently not scheduled. However, any interested person or duly authorized representative may request, no later than 15 days before the close of the written comment period that a public hearing be scheduled.

Following the public hearing, if one is requested, or following the written comment period, if no public hearing is requested, the Commission, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days before its adoption from the persons designated in this Notice as contact persons and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

Notice is given that the California Student Aid Commission (Commission) is proposing to take the action described in the Informative Digest.

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

California Student Aid Commission
Attention: Kathy Spencer
P. O. Box 419029
Rancho Cordova, CA 95741-9029

Comments may also be submitted by facsimile (FAX) at (916) 464-8240 or by e-mail to CNGRegsComment@csac.ca.gov. Comments must be submitted before 5:00 P.M. on October 4, 2010.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 69999.22 of the Education Code, and to implement, interpret, or make specific sections 69999.10-69999.30 of the Education Code, the Commission is considering changes to Division 4 of Title 5 of the California Code of Regulations as follows: add sections 30730-30736 to implement, interpret, and make specific sections 69999.10-69999.30 of the Education Code establishing the California National Guard Education Assistance Award Program (CNG EAAP).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW
The California National Guard performs an essential public purpose in protecting the health, safety, and property of California's citizens, and in order to fulfill its objectives, it is necessary for the California National Guard to have sufficient human resources to deal with a natural or human-caused disasters and emergencies. It is the intent of Legislature to provide an inducement to members of the California National Guard to maintain the required strength in the California National Guard.

The proposed regulations would implement, interpret, and make specific the elements of CNG EAAP. Specifically, the proposal would:

1. Establish the identification of the initial application;
2. Specify applicant's desired certificate, degree and/or diploma;
3. Specify on the initial application the statutory two year active membership requirement;
4. Establish a renewal application;
5. Establish a deadline for the renewal application;
6. Specify information needed on renewal application from participants to continue participation in the program;
7. Establish the requirements for submission of renewal application;
8. Specify the term for reporting veteran's educational benefits;
9. Specify that disbursements can not be received for both the CNG EAAP and Cal Grant award for the same academic year; and
10. Specify the consequences of a program participant's failure to comply with the submission of a renewal application.

There are no comparable provisions of federal law related to this proposal.

OTHER STATUTORY REQUIREMENT
The Commission, in consultation with the Military Department developed the proposed regulation text for the CNG EAAP.

LOCAL MANDATE
This proposal does not impose a mandate on local agencies or school districts.

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 cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

COSTS OR SAVINGS TO STATE AGENCIES: None

EFFECT ON HOUSING COSTS: None

BUSINESS IMPACT / SMALL BUSINESSES
The Commission has made a determination that 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 due to the population the program targets which is active members of the California National Guard, State Military Reserve, and Naval Militia.

ASSESSMENT REGARDING EFFECT ON JOBS / BUSINESSES
The Commission has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PERSON OR BUSINESS
The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORT
This regulatory proposal does not require a report.

ALTERNATIVES
The Commission has determined that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the adoption of this regulation is proposed, or would be as effective as and less burdensome to affected private persons that the proposed action.

CONTACT PERSON
Inquires concerning the proposed adoption of the regulations and written comments may be directed to:

Kathy Spencer
California Student Aid Commission
P.O. Box 419029
Rancho Cordova, CA 95741-9029

(916) 464-3021
(916) 464-8240 Facsimile

TEXT OF PROPOSAL
Copies of the exact language of the proposed regulations and all the information upon which the proposal is based may be obtained upon request from:

California Student Aid Commission
P. O. Box 419029
Rancho Cordova, CA 95741-9029

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

INITIAL STATEMENT OF REASONS AND INFORMATION

The Commission has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting:

Kathy Spencer
California Student Aid Commission
P.O. Box 419029
Rancho Cordova, CA 95741-9029

(916) 464-3021
(916) 464-8240 Facsimile

Kristen Trimarche
California Student Aid Commission
P.O. Box 419029
Rancho Cordova, CA 95741-9029

(916) 464-6461
(916) 464-8240 Facsimile

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the contact person named above.

WEBSITE ACCESS

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

UPDATED INFORMATIVE DIGEST

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action.