

Action Item

California Student Aid Commission

Consideration of adoption of amendments to regulations, Sections 30730-30736, Title 5, California Code of Regulations, Division 4, to interpret, implement and make specific Sections 69999.10 – 69999.30 of the Education Code, implementing the California National Guard Education Assistance Award Program

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, allows participants who complete a degree and have remaining eligibility to reapply for the program, and specifies the leave of absence and appeal process.

Tab 14.a provides background on the statute.

Tabs 14.b – 14.d provide the draft Notice of Proposed Rulemaking, the Initial Statement of Reasons and the text of the proposed amendments to the CNG EAAP regulations.

Recommended Action: Authorize staff to commence the rulemaking process, adopt the 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.

Responsible Person(s): Keri Faseler Tippins
General Counsel

**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 Adjutant General selects recipients and the Commission issues the awards. Costs incurred by the Commission for issuing and processing awards are 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.

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.

At the request of the California Military Department, 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.

OAL Regular Rulemaking Process

Staff is requesting the authority to commence the formal rulemaking process required to implement amendments to the CNG EAAP regulations under the Administrative Procedure Act. This will include the development of the proposed text, the Initial Statement of Reasons, the STD 399 Fiscal Impact Statement, and the Notice of Proposed Regulatory Action. These forms would then be submitted to the Office of Administrative Law (OAL) for review and publication. These documents would also be published on the Commission's website.

The rulemaking process requires, at a minimum, a 45-day public comment period. The Commission may also elect to hold a public hearing on a proposed rulemaking action. If the Commission does not schedule a public hearing, any interested person can submit a written request for one to be held. The written request for a hearing must be submitted at least 15 days prior to the close of the written public comment period, and the agency must give notice of and hold a public hearing.

After the initial 45-day public comment period, the Commission may decide to change its initial proposal either in response to public comments received or on its own initiative. If changes to the initial regulations are made, the Commission would have to decide whether the changes necessitate an additional public comment period. Depending on whether the change is nonsubstantial or substantial, an additional comment period of either 15-days or 45-days may be required.

The Commission must summarize and respond on the record to timely comments that are directed at the proposal or at the procedures followed by the agency during this process. With each comment, the agency must either (1) explain how it has amended the proposal to accommodate the comment, or (2) explain the reasons for making no change to the proposal. The summary and response to comments are part of the rulemaking file and are included in the Final Statement of Reasons that is submitted to OAL.

Once the complete rulemaking file is submitted to OAL, OAL has 30 working days to conduct its review. OAL must review the rulemaking record to determine whether it demonstrates that the Commission satisfied the procedural requirements of the APA and complied with the appropriate legal standards. Once OAL has completed its review, and assuming the Commission has met its obligations, OAL files the regulation with the Secretary of State and the regulations become effective.

Regular Rulemaking Calendar with 15-day Public Comment Period

- 04/27/12 – Commission approval
- 05/01/12 – 10 day notice of OAL 45-day submission
- 05/11/12 – 1st day of 45-day Public Comment Period (OAL Publication Date)
- 06/25/12 – End of 45-day Public Comment Period
- 07/02/12 – 1st day of 15-day Public Comment Period (if needed)
- 07/17/12 – End of 15-day Public Comment Period
- 09/04/12 – 10-day Commission Meeting notice
- 09/13/12 – Tentative Commission Meeting to adopt regulations*
- 09/17/12 – Submit Final File to OAL for approval (30 business day review)
- 10/30/12 – OAL approves or denies regulations

**Currently, the first available Commission meeting is schedule for September 13-14; should an additional meeting be scheduled prior to September, the regulations will be placed on the agenda for Commission action.*

**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.

WRITTEN COMMENT PERIOD

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: Kristen Trimarche
P. O. Box 419029
Rancho Cordova, CA 95741-9029

Comments may also be submitted by facsimile (FAX) at (916) 464-8033 or by e-mail to CNGRegsComment@csac.ca.gov. Comments must be submitted before 5:00 P.M. on June 25, 2012. The Commission will consider only comments received at the Commission by that time.

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: amend 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. Enhance existing and include additional definitions;
2. Integrate current regulations to identify qualifying educational institutions;
3. Establish a new initial application deadline to correlate with the program administration process;
4. Specify a renewal application process; and,
5. Incorporate leave of absence and appeal processes.

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.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS: None

COSTS OR SAVINGS TO STATE AGENCIES: 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 cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

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

In accordance with Government code section 11346.5, subdivision (a)(13), the Commission must determine 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 action is proposed, or would be as effective as and less burdensome to affected private persons that the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

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

Kristen Trimarche
California Student Aid Commission
P.O. Box 41902
Rancho Cordova, CA 95741-9029

(916) 464-6439
(916) 464-8033 Facsimile

The back-up contact person for these inquiries is:

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

(916) 464-7203
(916) 464-8033 Facsimile

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

Copies of the exact language of the proposed regulations and all the information upon which the proposal is based may be obtained by making a written request to the contact person named above.

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 Kristen Trimarche 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 contacting Kristen Trimarche at the above address.

WEBSITE ACCESS

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

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

**AMENDMENT TO TITLE 5, DIVISION 4, CHAPTER 1, ARTICLE 15
CA CODE OF REGULATIONS
CALIFORNIA NATIONAL GUARD EDUCATION ASSISTANCE AWARD PROGRAM**

INITIAL STATEMENT OF REASONS

INTRODUCTION

Assembly Bill 12 of the Fourth Extraordinary Session, the local government trailer bill to the 2009 Budget Act Amendments, 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 Student Aid Commission (Commission).

Based on the authority provided in Education Code Section, 69999.22, Commission staff, in consultation with the Military Department 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 69999.10-69999.30, which became effective on January 10, 2011.

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 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.

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 recipient attending a non-public institution, or up to the Cal Grant A award plus \$500 for books and supplies for graduate studies.

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

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

Proposed Sections 30730.1 – 30730.20 provides a new numbering structure to allow for ease of reference.

Proposed Section 30730.4 clarifies the acronym “CNG EAAP” as the California National Guard Education Assistance Award Program, which is used throughout the article.

Proposed Section 30730.9(h) and (l) specifies that program participants who have successfully completed the certificate, degree, or diploma sought when entering the program and who have remaining program eligibility, may continue to be considered eligible for the program.

Proposed Section 30730.10(a)(1)(2)(3) makes specific the parameters for undergraduate enrollment status.

Proposed Section 30730.10(c) makes specific the enrollment status for graduate enrollment status.

Proposed Section 30730.12 defines “Leave of Absence (LOA).” This definition is necessary to provide the program participant the scope of time and to identify the overseeing and authority entity of an absence from the program.

Proposed Section 30730.17 integrates Education Code Section 69432.7(l) to clarify the definition of a qualifying educational institution and removes subsections (a) through (c) due to non-relevancy.

Proposed Section 30730.18 provides a specific definition for a participant’s reinstatement to the program.

Proposed Section 30731 changes the initial application deadline to correlate with the timely administration of program processes.

Proposed Section 30734(a)(1) removes the Adjutant General’s requirement to certify a participant’s grade point average due to the fact that the educational institution provides this certification.

Proposed Section 30734(d) indicates that participants must contact the CNG EAAP Coordinator when changing their educational institution.

Proposed Section 30734(g) clarifies that current program eligibility and availability of funds are requirements for participants to receive a payment under the program.

Proposed Section 30730(h)(3)(E) specifies that a participant wishing to renew participation in the program is required to complete a renewal application.

Proposed Section 30736 removes subsections (b) and (c), which are now included in Section 30737.

Proposed Section 30737 provides a new section to specify the scope of time and to identify the overseeing and authority entity of an absence from the program.

Proposed Section 30738 incorporates a new section to further define the program appeal process if a participant is withdrawn from the program.

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**AMENDMENT TO TITLE 5, DIVISION 4, CHAPTER 1, ARTICLE 15
CA CODE OF REGULATIONS
CALIFORNIA NATIONAL GUARD EDUCATION ASSISTANCE AWARD PROGRAM**

§ 30730. Definitions.

§ 30730.1 "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.

§ 30730.2 "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.

§ 30730.3 "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~~.

§ 30730.4 "CNG EAAP" means California National Guard Education Assistance Award Program

§ 30730.5 "Commission" means California Student Aid Commission.

§ 30730.6 "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.

§ 30730.7 "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)

§ 30730.8 "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.

§ 30730.9 "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.
- (h) Has previously participated in the program and successfully completed certificate/degree/diploma that formed the basis of the previous award, and has not exceeded the amount of program eligibility set forth in California Education Code Section 69999.18(e).

§ 30730.10 "Enrollment status" means full-time or part-time status:

- (a) Part time, for purposes of program eligibility for undergraduate participants, is defined as less than 12 semester units, inclusive, or the equivalent.
 - (1) An undergraduate participant enrolled for at least 9 semester units but less than 12 semester units or the equivalent is considered 3/4 time.
 - (2) An undergraduate participant enrolled for at least 6 semester units but less than 9 semester units or their equivalent is considered 1/2 time.
 - (3) An undergraduate 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 for undergraduate participants, is defined as 12 or more semester units or the equivalent.
- (c) Part time and Full time status, for purposes for graduate participants, is the enrollment status as defined by the institution.

§ 30730.11 "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.

§ 30730.12 "Leave of Absence (LOA)" means a period of time approved by the Adjutant General during which a program participant does not receive award payments and maintains program eligibility.

§ 30730.13 "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.

§ 30730.14 "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.

§ 30730.15 "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.

§ 30730.16 "Program Participant" 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.

§ 30730.17 "Qualifying institution" means the institution has met the requirement of California Education Code Section 69432.7(l) and has signed an Institutional Participation Agreement with the Commission. ~~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 signed an Institutional Participation Agreement with the Commission.~~

§ 30730.18 "Reinstatement" means restoring a participant's program eligibility due to an approved appeal.

§ 30730.19 "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.

§ 30730.20 "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: Section 69999.16, Education Code.

§ 30731. Application to Participate in the Program.

(a) An initial application 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~~ April 30 deadline. The applications 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 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;

(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;

(13) Certification if the applicant has completed the FAFSA for the application year;

(14) The Applicant's award preference if eligible for both a Cal Grant Award and a CNG EAAP award;

(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;

(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;

(17) Gender;

(18) Ethnicity;

(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 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 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.

(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 participant's 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 participant's representations that he or she understands and agrees to:

(A) sSubmission of the CNG EAAP Renewal Application by the deadline of June 1 or may be withdrawn from the program;

(B) uUse the award to obtain a certificate, degree, or diploma that he or she does not currently hold at the time of application renewal;

(C) mMaintain enrollment in at least three (3) academic units per semester, or the equivalent thereof at an eligible institution;

(D) mMaintain at least a 2.0 cumulative grade point average;

(E) nNot 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) rRemain 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) eComply 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 and 69999.18, Education Code.

§ 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.

§ 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 at, or enrolled in undergraduate, certificate/diploma, or graduate studies;
- (6) E-mail address;
- (7) Name of qualifying institution ~~in~~ at 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 receive ~~d~~ 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: Section 69999.16, Education Code.

§ 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, ~~T~~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 fees 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~~ CNG EAAP Coordinator 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) ~~p~~Prior to the time of actual enrollment; or

(2) ~~a~~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) Payments are based on current program eligibility and availability of funds.

(gh) 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) ~~t~~The Adjutant General certifies as eligible;

(B) ~~s~~Satisfy enrollment in the minimum number of credits each term;

(C) ~~m~~Maintain a minimum ~~of a~~ 2.0 cumulative grade point average;

(D) ~~h~~Have remaining program eligibility; and

(E) eComplete a renewal application that shall include the following information (Appendix C):

~~(h i)~~ 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 j)~~ 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 k) 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 l) 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 and 69999.20, Education Code. Section 69433.7, Education Code. Reference: Sections 660021.2, Education Code.

§ 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: Section 69999.18, Education Code.

§ 30736. Failure to Comply with Applicable Laws and Regulations.

(a) Except as otherwise specified in ~~subsections (b)–(e)~~ section 30737, 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) ~~F~~Failure to maintain enrollment in at least three academic units per semester or the equivalent at a qualifying institution;
- (2) ~~F~~Failure to maintain a minimum of a 2.0 cumulative grade point average (GPA) while attending a qualifying institution;
- (3) ~~L~~Loss of status as a California resident;
- (4) ~~F~~Failure to submit a renewal application each academic year except if the program participant has an approved leave of absence;
- (5) ~~V~~Violation of the Commission regulations; or
- (6) ~~F~~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 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 waive 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.~~

~~(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 waive 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.~~

(eb) 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.

§ 30737. Leave of Absence.

(a) A Leave of Absence (LOA) request may submitted in writing to the Adjutant General for approval for the following reasons: serious illness; pregnancy; other natural causes; call to active military status/activation/deployment; or reasons beyond the control of the participant.

(b) Upon the Adjutant General's approval, a program participant shall be excused for a period not to exceed one calendar year, unless approved by the Adjutant General for a longer period of time.

(c) The Adjutant General may waive the written requirement due to the enactment of a state of emergency or as ordered by the Governor.

(d) The Commission shall make no further payments under the program until the applicable enrollment requirements have been satisfied and the program participant has submitted a renewal application.

§ 307378. Appeal Process.

(a) If a program participant is withdrawn, the individual may ~~send in a written~~ request for an administrative appeal ~~to~~ from The Adjutant General that describes why he or she should be reinstated into the program. In addition, along with supporting documentation, if applicable, showing that the participant he or she has continually met program eligibility may be required. 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.

Appeals may be submitted when:

- (1) Procedural error beyond the control of the participant results in ineligibility;
- (2) The participant alleges other violations of this regulation or controlling statute.

(b) Appeals must be submitted in writing and sent to:

California National Guard

Attn: EAAP Coordinator (Box 37)

P.O. Box 269101

Sacramento, CA 95826-9101

(c) All appeals must be received by the CNG EAAP Coordinator within 90 calendar days of:

- (1) Notification of Educational Assistance Award denial;
- (2) Learning of procedural error.

Appeals submitted for failing to meeting program guidelines will not be accepted.

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