

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

**AMENDMENT TO TITLE 5, CA CODE OF REGULATIONS REGARDING
THE CAL GRANT PROGRAM AND MANDATORY SYSTEMWIDE FEES
(CALIFORNIA CODE OF REGULATIONS §30001.5)**

**NOTICE OF PROPOSED SECOND RE-ADOPTION
OF EMERGENCY REGULATIONS**

NATURE OF PROCEEDING

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

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 the

OAL Reference Attorney
300 Capitol Mall, Suite 1250
Sacramento, California 95814
by fax to (916) 323-6826
or by e-mail to staff@oal.ca.gov

AND

California Student Aid Commission
Attention: Kristen Trimarche
P. O. Box 419027
Rancho Cordova, CA 95741-9027
or by email to CalGrantRegsComment@csac.ca.gov

FINDING OF EMERGENCY

The Commission is charged with providing educational opportunity by ensuring all students with financial need with access to, and choice of, an institution of higher education. Emergency regulations are being sought to address a situation that calls for immediate action to avoid serious harm to the public peace, health and safety, or general welfare. Specifically, the Commission finds that an emergency exists, and the need for immediate adoption of the proposed regulations is necessary to ensure unobstructed student access to Cal Grant awards, to ensure accountability for, and integrity of state funds authorized for the Cal Grant program.

For the 2011-12 academic year, the University of California (UC) and California State University (CSU) systems adopted the use of "tuition" and/or "tuition fee" as part of the description of the fees that these institutions charge to students; similar to the nomenclature used by other non-public institutions to describe the cost of instruction. Adopting this description helps postsecondary students better understand and evaluate the costs of attending a postsecondary institution.

In order to ensure that Cal Grant awards and services to students not be disrupted for the 2011-12 academic year the Commission submitted emergency regulations to the Office of Administrative Law (OAL) on March 15, 2011, which were filed with the Secretary of State's Office on March 24, 2011. The Commission then proceeded with work on the regular rulemaking process; however, since the regulatory process would not provide for adequate time to submit the file for OAL review prior to the emergency regulations expiring, the Commission submitted the first re-adoption of the emergency regulations on September 8, 2011, which were approved on September 19, 2011 and will expire on December 20, 2011.

The Commission has commenced the regular rulemaking process for these regulations, and the 45-day public comment period deadline is January 17, 2011. The first re-adoption of the emergency regulations are in effect only through December 20, 2011, so the Commission is submitting a second re-adoption of the regulations in order to provide the necessary time required to complete the regular rulemaking process.

Without this regulation in place in advance of the December 20, 2011 deadline, significant harm to approximately 160,000 Cal Grant recipients attending and/or planning to attend either UC or CSU could occur. Without clarity that a Cal Grant will cover the fees and tuition at UC and CSU, Cal Grant recipients may choose to attend non-public institutions or forego attending any postsecondary institution. While it is unknown at this time what, if any, fiscal impact this places on UC and/or CSU, it is estimated that approximately 160,000 Cal Grant recipients are planning to attend, or attending, UC and CSU in the 11-12 academic year.

In addition, Cal Grant was to intended to ensure that low income students had both "access to" and "selection of" an institution of higher education. (See Educ. Code section 66021.2, which the proposed regulation is intended to clarify). Both of these fundamental principles are infringed upon if Cal Grant recipients do not have the Cal Grant funds that allow them to choose to attend one of the public institutions. Cal Grant awards fully cover the fees charged by UC or CSU. This is not true for many other post-secondary choices, many of the private, independent and for-profit colleges charge more than UC/CSU. Cal Grant recipients, who are already low-income, would likely have to find other sources of income to cover the increased costs of their education through, for example, student loans. Cal Grant recipients may forego attending college if they do not want to incur the student loan debt necessary to attend a non-public institution or, if they do decide to attend elsewhere, will potentially obligate themselves to unnecessary student loan debt. Thus, without the regulation in place to inform students of the availability of the Cal Grant to cover tuition at UC and CSU for the 11-12 academic year during the critical time period when students are making enrollment decisions, there creates a potential long-term financial impact on students.

With the second re-adoption of the emergency regulations, the Commission will be able to ensure Cal Grant awards and services to students will not be disrupted while pursuing the regular rulemaking process to make the regulations permanent.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 69433.7 of the Education Code, and to implement, interpret, or make specific sections 69430-69460 of the Education Code, the Commission is considering changes to Division 4 of Title 5 of the California Code of Regulations as follows to add section 30001.5, for clarification.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commission performs an essential public purpose in protecting and providing educational opportunity by ensuring all students with financial need with access to, and choice of, an institution of higher education. In order to fulfill its objectives, it is necessary for the Commission to define those fees.

For the 2011-12 academic year, the University of California (UC) and California State University (CSU) systems are adopting the use of "tuition" and/or "tuition fee" as part of the description of the fees that these institutions charge to students; similar to the nomenclature used by other non-public institutions to describe the cost of instruction. Adopting this description helps postsecondary students better understand and evaluate the costs of attending a postsecondary institution.

Education Code Section 66021.2 indicates that, for UC and CSU, a Cal Grant award covers the mandatory systemwide fees charged by those institutions. The Student Aid Commission wants to interpret and make specific that "tuition" and/or a "tuition fee" are considered to be among the "mandatory systemwide fees" which are eligible for coverage by a Cal Grant award at UC and CSU.

The proposed regulations would implement, interpret, and make specific the elements of the Cal Grant Program. Specifically, the proposal would add a definition for mandatory systemwide fees.

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

OTHER STATUTORY REQUIREMENT

None

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

SUBMITTING COMMENTS ON PROPOSED EMERGENCY REGULATIONS

If you wish to comment on the proposed second re-adoption of emergency regulations, you must submit the comment directly to OAL within five calendar days of when OAL posts the proposed emergency regulation on the OAL Web site. You may submit comments on proposed emergency regulations to:

OAL Reference Attorney
300 Capitol Mall, Suite 1250
Sacramento, California 95814

or by fax to (916) 323-6826, or by e-mail to staff@oal.ca.gov.

When you submit a comment to OAL, you must also submit a copy of your comment to the Commission. The comment must state that it is about an emergency regulation currently under OAL review and include the topic of the emergency. Inquiries concerning the proposed adoption of this regulation may be directed to:

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

or by fax to (916) 464-8033, or by e-mail to CalGrantRegsComment@csac.ca.gov. The Commission is not required to respond to comments submitted. If the Commission chooses to respond, however, it must submit its response to OAL within eight **calendar** days after the date of submission of the proposed emergency regulation(s) to OAL.

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 the

California Student Aid Commission
Legal Services
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.

WEBSITE ACCESS

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