

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

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 California Student Aid Commission (Commission). Commission staff in consultation with the Military Department pursued the adoption of emergency regulations to implement the program and make awards for the spring term of the 2009-10 academic year.

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 69999.10-69999.30. The emergency regulations were approved by the Office of Administrative Law (OAL) and filed with the Secretary of the State's Office on December 16, 2009. These emergency regulations for the California National Guard Education Assistance Award Program (CNG EAAP) are approved only through June 14, 2010. As a result, the Commission has commenced the regular rulemaking process to make the emergency regulations permanent.

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 regulations specify information that will be requested from applicants, The Adjutant General and qualifying institutions. It clarifies certification required by applicants, The Adjutant General, and qualifying institutions. It also establishes a deadline for application submission for the initial submissions of applications and subsequent years.

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

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

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

Section 30730 – Definitions

This section defines the terms used in this Article.

Proposed Section 30730 defines “academic year.” This definition clarifies that the term used in the regulations regarding the enrollment year at a qualifying institution. This definition is necessary to ensure program and fiscal continuity rather than accepting different definitions established by the qualifying institutions.

Proposed Section 30730 defines “active member”. This definition is necessary because Education Code Section 69999.16 (b) (2) limits program participation to active members of the California National Guard, State Military Reserve, and Naval Militia.

Proposed Section 30730 defines “administrative appeal.” This definition is necessary to provide the program participant the scope of appeal and to identify the overseeing and authority entity of an appeal.

Proposed Section 30730 defines “Commission” to mean the California Student Aid Commission. This definition is necessary to simplify the references to the California Student Aid Commission throughout the Article.

Proposed Section 30730 defines “cost of attendance” to mean the student budget at the qualifying institution. This definition clarifies the information that is necessary for the Commission to determine the award amounts for program participants as required by Education Code Section 69999.18. For simplicity and uniformity, the Commission will consider the same cost information used in federal and state financial aid programs.

Proposed Section 30730 defines “disaster” to mean a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the Governor determines that is presents a threat to public safety pursuant to Government Code Section 8680.3. This definition is necessary to clarify when a program participant who fails to fulfill his or her enrollment commitment due to a disaster is to be excused from the enrollment requirement for a period not to exceed one calendar year unless approved by the Adjutant General for a longer period of time.

Proposed Section 30730 defines "eligible applicant." This definition is necessary because Education Code Section 69999.16 limits participation to these criteria.

Proposed Section 30730 defines “enrollment status.” This definition is necessary because Education Code Section 69999.18 (e) allows a program participant to renew the award for four years of full-time equivalent enrollment. Program participants are only required to be enrolled in three (3) semester credits or the equivalent to retain their program eligibility. This section is

needed to specify program participants enrollment status based on the number of credits enrolled. The enrollment status will be used to determine the program eligibility used each academic year.

Proposed Section 30730 defines “other natural causes” to mean 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. This definition is necessary to clarify when a program participant who fails to fulfill his or her enrollment commitment due to serious illness, pregnancy or other natural causes is eligible to receive a leave of absence not to exceed one calendar year unless approved by The Adjutant General for a longer period of time.

Proposed Section 30730 defines “program” to mean the California National Guard Education Assistance Award Program, established in Education Code Section 69999.10 et seq. This definition is necessary to simplify the references to the program throughout the Article.

Proposed Section 30730 defines “program participant.” This definition is necessary to distinguish a program participant who has been selected by The Adjutant General for program participation, from an individual who has submitted an application, but has not been selected by The Adjutant General.

Proposed Section 30730 defines "qualifying institution." This definition is necessary to clarify references to colleges and universities the participants are allowed to attend, as authorized by Education Code sections 69999.16(b) (3) and 69432.7(l).

Proposed Section 30730 defines “residence determination date”. This definition clarifies the residence determination date used in the regulations. This definition is necessary because Education Code Section 69999.16 (b) (1) requires a program participant to be a California resident. Qualifying institutions use different dates to determine California residency. Rather than imposing a different definition solely for the purposes of the program, it is simpler, more efficient and uniform to remain flexible in the date used as allowed in the definition.

Proposed Section 30730 defines “serious illness” to mean 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. This definition is necessary to clarify when program participant who fails to maintain enrollment in three (3) semester units or the equivalent due to serious illness, pregnancy or other natural causes is eligible to receive a leave of absence not to exceed one calendar year, unless approved by The Adjutant General for a longer period of time.

Section 30731 – Application to Participate in the Program

Proposed Section 30731(a) specifies the content of an application to participate in the program and provides applicants with guidance on program eligibility requirements. It also ensures that each application contains sufficient information to evaluate applicants, consistent with Education Code Sections 6999.16, 6999.18, 6999.20, and for the Adjutant General to determine applicant selection. The information required in this section is necessary for the Commission and the

Military Department to identify and contact each applicant. Additionally, the requested information is simulated to provide to the legislature annually.

The regulation also specifies that the Commission will establish a deadline each year for the submission of applications to the program. The deadline is necessary to ensure that the The Adjutant General has sufficient time to receive, process, and select the most qualified applicants.

This section requires the application to be dated and signed under penalty of perjury under the laws of the State of California, and requires the applicant to agree to provide verification of the accuracy of the information reported in the application, if requested. This is necessary to obtain information with a degree of reliability to justify the expenditure of State funds.

Proposed Section 30731(b) establishes the requirement for applicants to submit the Free Application for Federal Student Aid (FAFSA). This section is consistent with Education Code Section 6999.16 as a statutory requirement in order to be considered as an eligible applicant.

Section 30732 – Applicant Priority

Proposed Section 30732 (a) specifies that The Adjutant General will annually identify the skills most needed by the California National Guard. This section is needed to inform applicants The Adjutant General will select application into the program who possess or seek to possess the skills most needed by the California National Guard. This section is consistent with Education Code Section 69999.16 (d) (1).

Proposed Section 30732 (b) specifies the purpose and objectives of the board that is appointed by The Adjutant General. This section is necessary to clarify who is responsible for prioritizing and recommending the best qualified service members to The Adjutant General. This section is consistent with Education Code Section 69999.16(e).

Section 30733 – Selection by The Adjutant General

Proposed Section 30733 (a) specifies The Adjutant General will select from among eligible applicants by the deadline established by section 30731. This is necessary as only eligible applicants will be considered for program participation. The deadline is necessary to ensure The Adjutant General will receive the information necessary in a timely manner to select program participants consistent with the eligibility criteria in Education Code Section 69999.16

Proposed Section 30733 (b) and (c) specifies The Adjutant General will prioritize and certify the eligibility of applicants to the Commission. This is necessary to ensure that The Adjutant General receives the information necessary to select program participants consistent with the eligibility criteria in Education Code Section 69999.16. This section ensures that The Adjutant General can select the most qualified applicants in the event there are more applicants received than there are awards authorized by statute.

This section also specifies The Adjutant General will notify applicants of their selection or non selection for an award. The section is consistent with Education Code 6999.16(d) (5). This is

necessary to allow non-awarded applicants notification they would be eligible to apply in subsequent years.

Proposed Section 30733 (d) specifies if a program participant is not able to utilize an award the next eligible applicant on the list may be given the award. This section is necessary to allow the maximum program participants of 1,000 in any fiscal year as authorized in Education Code Section 69999.16(f).

Proposed Section 30733 (e) specifies if the maximum awards authorized is not exhausted after the award process, The Adjutant General may continue to accept applications after the deadline and select program participants based on the date the applications are received by The Adjutant General's office. Selection from among eligible applicants may continue even after the completion of the initial award process until the maximum authorized awards are exhausted. This section is necessary to clarify that the selection from among eligible applicants may continue even after the completion of the initial award process until the maximum authorized awards are exhausted.

Proposed Section 30733 (f) requires The Adjutant General to submit information to the Commission on selected participants. This section is necessary to ensure the Commission has the information necessary to identify each participant separately from any other participant.

Section 30734– Payments

Proposed Section 30734 (a) clarifies the information the Commission will request from The Adjutant General, qualifying institutions, and the program participants regarding new and renewal participants. This section is necessary to ensure the Commission will have the information necessary to determine eligibility for new and renewal awards. .

Proposed Section 30734 (b) specifies the maximum amount a new or renewal program participant may be awarded. This section is necessary to ensure the amount of each award and that the awards are consistent with Education Code Section 69999.18(b) and 66021.2.

Proposed Section 30734 (c) specifies the formula that will be used to determine a program participants remaining need. This section is consistent with Education Code Section 69999.18(d) and is necessary to ensure that all awards are determined under consistent standards.

Proposed Section 30734 (d) specifies if 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. This section is necessary to inform qualifying institutions and program participants that eligibility for any re-determination of additional funds is not guaranteed and the scope of when a program participant can change his or her choice of school, college, or program.

Proposed Section 30734 (e) specifies eligibility for additional funding based on a revised cost of attendance is contingent on funds being available. This section is necessary to inform program participants and qualifying institutions what is required to apply for additional funds and the funds are not guaranteed.

Proposed Section 30734 (f) specifies that credits generated on program participant's accounts may be refunded to the program participant. This clarification is necessary because some financial aid programs only allow funds to be paid toward tuition and fees. The California National Guard Education Assistance Award Program allows funds to also be used towards other education related expenses.

Proposed Section 30734 (g) specifies the amount of eligibility a program participants uses based on the type of term and attendance status. This section is necessary to ensure that remaining program eligibility is considered under consistent standards.

Proposed Section 30734 (h) specifies a program participant may accelerate his or her college attendance and receive additional program benefits. This section is necessary to ensure program participants are not penalized.

Proposed Section 30734 (i) specifies when program participants eligibility is affected by a drop in units. This section is necessary to clarify a qualifying institution must return funds to the Commission when required by the qualifying institution's refund policy. Only the qualifying institution could ensure program compliance since they have direct information regarding the program participant's eligibility at the time of disbursement and the institution's refund policy,

Proposed Section 30734 (j) requires a qualifying institution to submit an adjusted cost of attendance if a program participant's tuition charges are reduced. This section is necessary because a program participant's tuition charges directly impacts the cost of attendance.

Section 30735 – Fifth Year Benefits

Proposed Section 30735 (a) establishes the eligibility requirements for fifth year benefits. This section is necessary to ensure program participants and qualifying institutions are informed of which programs are eligible for extended benefits and how to apply for those benefits. This section clarifies the eligibility for additional funds are contingent upon funds being available. This clarification is necessary because additional benefits are not guaranteed. This section is consistent with Education Code Section 69999.18 (e) which allows a program participant program eligibility for the duration a program participant would be eligible for the Cal Grant program. Participants in the Cal Grant program are eligible for Fifth Year Benefits.

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 Section 30736 (a) specifies that a program participant who fails to meet the conditions for payment may be withdrawn and the Commission shall not make any further payments. This section is necessary to clarify the consequences of a program participant's failure to satisfy the program requirements.

Proposed Section 30736 (b) establishes that the program participant shall be excused from the minimum enrollment requirement upon The Adjutant General's approval for a period of not to exceed one academic year if a program participant becomes unable to maintain enrollment in at

least three academic units per semester or the equivalent due to a serious illness, pregnancy, other natural causes, or is called to active military duty status. This section is necessary to clarify under what circumstances a program participant will be excused from the minimum enrollment requirements.

Proposed Section 30736 (c) establishes that the program participant shall be excused from the minimum enrollment requirement upon The Adjutant General's approval for a period of not to exceed one calendar year unless approved by The Adjutant General for a longer period of time if a disaster prevents a program participant from maintaining enrollment. This section is necessary to clarify under what circumstances a program participant will be excused from the minimum enrollment requirements.

Proposed Section 30736 (d) establishes that the program participant shall be excused from the minimum enrollment requirement upon The Adjutant General's approval for a period of not to exceed one calendar year unless approved by The Adjutant for a longer period of time if a program participant becomes unable to meet the conditions for payment due to reasons beyond the control of the program participant. This section is necessary to clarify under what circumstances a program participant will be excused from the minimum enrollment requirements.

Proposed Section 30736 (e) specifies program participants may be withdrawn at any time. This section is necessary to inform both program participants and qualifying institutions that program eligibility may be checked on a continuous basis by The Adjutant General.

Proposed Section 30736 (f) establishes the appeal process for program participants that are withdrawn from the program. The appeal process is necessary to clarify the steps a program participant must take to be considered for reentry into the program after being withdrawn.