

CALIFORNIA STUDENT AID COMMISSION
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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)**

PROPOSED TEXT

Text as originally proposed to be added to the California Code of Regulations is displayed in underline type and text to be deleted is displayed in ~~strikeout~~ type.

Changes to the text of the proposed regulations (15-Day Public Comment Period) is displayed in double underline type for additions, and in ~~double strikeout~~ type for deletions.

Changes to the text of the proposed regulations appendix's (15 Day Public Comment Period) is displayed in double underline type for additions, and in ~~double strikeout~~ type for deletions.

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 semester units, inclusive, or the equivalent.
 - (1) A participant enrolled for at least 9 semester units but less than 12 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) Applications 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 ~~4~~ 15 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; or / Diploma;
 - ~~(D) Diploma objective;~~
- (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) Unit;~~
- ~~(12) Unit Identification Code (UIC) or Personnel Accounting Symbol (PAS);~~
- ~~(13) Duty Military Occupational Specialty (DMOS) or Duty Air Force Specialty Code (DAFSC);~~
- ~~(14) Primary Military Occupational Specialty (PMOS) or Primary Air Force Specialty Code (PAFSC);~~
- ~~(15) Secondary Military Occupational Specialty (SMOS), Secondary Air Force Specialty Code (SAFSC);~~
- ~~(16)~~ (11) 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;
- ~~(17)~~ (12) Certification if the applicant has completed the FAFSA ~~Free Application for Federal Student Aid~~ for the application year;
- ~~(18)~~ (13) The Applicant's award preference if eligible for both a Cal Grant Award and a CNG EAAP award;
- ~~(19)~~ (14) The amount of funding the applicant will receive from the Federal Montgomery

GI Bill for the academic year;

~~(20)~~ (15) The amount of funding the applicant will receive from Federal Education Benefits program for veterans for the academic year;

~~(21)~~ (16) Gender;

~~(22)~~ (17) Ethnicity;

~~(23)~~ (18) The applicant's representations that he or she:

(A) will submit the ~~Free Application for Federal Student Aid (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 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) 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.

~~(24)~~ (19) 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.

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. ~~If The Adjutant General determines in any fiscal year that the number of awards authorized for the program is insufficient to make awards to all eligible applicants,~~ 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 ~~his~~ 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. ~~Eligible Applicants being considered for excess awards not meeting the deadline established by section 30731~~ must complete the FAFSA for the academic year he or she is applying for prior to being accepted into the program by the date of application to 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) ~~the~~ 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 ~~the academic year~~;
 - (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 the academic year~~;
- (B) The amount of any other federal educational benefits program for veterans the participant will receive for ~~each term the academic year~~;
- (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, ~~sessions, or quarters~~.

(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) (i) 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) is in violation of the Commission regulations; or
 - (5) 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.
- (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.
- (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.
- (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.