

**CALIFORNIA STUDENT AID COMMISSION
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**AMENDMENT TO TITLE 5, DIVISION 4, CHAPTER 1, CA CODE OF REGULATIONS
REGARDING STATE NURSING ASSUMPTION PROGRAM OF LOANS FOR EDUCATION
FOR NURSING FACULTY
(EDUCATION CODE 70100 *et seq.*)**

INITIAL STATEMENT OF REASONS

INTRODUCTION

The State Nursing Assumption Program of Loans for Education for Nursing Faculty is established in Education Code sections 69616-69616.7. Effective January 1, 2007, the Legislature amended and renumbered these statutes as Education Code sections 70100 - 70110. This program authorizes the California Student Aid Commission (CSAC) to make payments on behalf of program participants of loans used to pay for the costs of obtaining their undergraduate and/or graduate degrees. (Educ. Code §70101.) The loan payments begin only after those program participants obtain their baccalaureate or graduate degree and complete an academic year of full-time, or the part-time equivalent, teaching nursing in a regionally accredited California college or university. (Educ. Code §70102.) The participants are obligated to teach for three consecutive academic years of full-time teaching, or the equivalent period on a part-time basis, to receive up to \$25,000 in loan payments. (Educ. Code §70103.) CSAC is required to select participants in the program from nominees submitted by accredited colleges and universities based on demonstrated academic ability and, in the case of undergraduate applicants, demonstrated financial need. (Educ. Code §70105.) The Legislature's stated intent for this loan assumption program was that it "be designed to encourage persons to complete their graduate educations and serve as nursing faculty at a regionally accredited California college or university." (Educ. Code § 70100(c).) Recognizing the growing need for new faculty members in the nursing field at California's colleges and universities, the Legislature found that "the rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a graduate degree in nursing education." (Educ. Code § 70100(b).)

The proposed regulations implement, interpret, and make specific the requirements established in Education Code sections 70100-70110.

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 17 – STATE NURSING ASSUMPTION PROGRAM OF LOANS FOR EDUCATION FOR NURSING FACULTY

Section 30910 – Definitions

This section defines the terms used in this Article.

Subsection (a) of section 30910 defines “academic year.” This clarifies that the term used in Education Code section 70103 regarding the length of teaching service required for a loan payment, means an academic year as defined by the employing California school. Rather than imposing a different definition solely for the purposes of this program, it is simpler and more efficient to accept the employing California college’s or university’s definition.

Subsection (b) of section 30910 defines “accredited college or university.” The definition specifies that a college or university attended by a student who applies to participate in the program must be accredited by a national or regional accrediting body, including six specifically-named regional accrediting bodies. This is necessary because Education Code section 70102 (a) requires that students who apply for the program must receive a baccalaureate or a graduate degree from an accredited college or university. The six named regional accrediting bodies are recognized by the United States Department of Education.

Subsection (c) of section 30910 defines “cost of attendance” to mean the student budget at the participating institution for the nominated student. This definition clarifies the information that is necessary for CSAC to determine “demonstrated financial need” for undergraduate students as required by Education Code sections 70101(c) and 70105(b). For simplicity and uniformity, CSAC will consider the same cost information used in federal and state financial aid programs.

Subsection (d) of section 30910 defines “demonstrated academic ability” to mean academic standing consistent with or superior to the requirements established by the accredited college or university for satisfactory progress toward graduation or the award of an undergraduate or graduate degree. This definition is necessary because Education Code section 70101(c) requires that program participants have demonstrated academic ability.

Subsection (e) of section 30910 defines “demonstrated financial need” to mean financial need determined under Article 1.5 (commencing with section 69503) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, as required by Education Code section 70101(c). This definition is necessary because Education Code section 70101(c) requires program participants who are undergraduates to have demonstrated financial need, as determined under the referenced article.

Subsection (f) of section 30910 defines “eligible noncitizen.” This definition is necessary because Education Code section 70101(a)(1) limits program participation to United States citizens or eligible noncitizens. The proposed definition is the same definition used for federal financial aid programs, including student loans issued by the Federal Family Education Loan Program (FFELP) and the Direct Lending Program. Since student loans obtained under both FFELP and the Direct Lending Program are eligible for payment under the program, using a similar definition for eligible noncitizen is more efficient and enhances clarity and consistency.

Subsection (g) defines “full-time” and “full-time basis” to mean full-time employment as determined by the employing regionally accredited California college or university. This is necessary because Education Code section 70103 requires a program participant to agree to teach in a regionally accredited California college or university on a full-time basis, or the equivalent of full-time, to qualify for loan payments by CSAC. California colleges and universities have different standards by which they determine whether an employee is working full-time, and these standards apply for purposes of determining retirement and other employment rights. Rather than imposing a different definition solely for program purposes, it is more efficient to accept the employing California college’s or university’s standard for full-time employment.

Subsection (h) of section 30910 defines “half-time basis” as half-time enrollment as determined by the participating institution. This is necessary because Education Code section 70101(c) (3) requires enrollment on at least a half-time basis to be eligible for the program. Participating institutions have different standards by which they determine enrollment status. Rather than imposing a different definition solely for program purposes, it is more efficient to accept the participating institutions standards for half-time enrollment.

Subsection (i) of section 30910 defines “natural disaster” to mean a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the Governor determines presents a threat to public safety pursuant to Government Code section 8680.3. This is necessary to clarify Education Code section 70104 (c), which provides that a program participant who fails to fulfill his or her teaching commitment due to a natural disaster is to receive an extension equal to the period from interruption of instruction at the employing accredited California college or university to the resumption of instruction.

Subsection (j) of section 30910 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 federal Family and Medical Leave Act of 1993. This is necessary to clarify Education Code section 70104 (b), which provides that a program participant who fails to fulfill his or her teaching commitment due to serious illness, pregnancy or other natural causes is to receive an extension of the term of the loan assumption agreement not to exceed one academic year.

Subsection (k) of section 30910 defines “participating institution.” This definition is necessary to clarify references to those colleges and universities that choose to submit nominations of applicants to CSAC, as authorized by Education Code section 70105(a). This definition also distinguishes references in the regulations to colleges or universities that have nominated applicants from references to colleges or universities that employ program participants to teach in nursing programs after the participants receive their degrees.

Subsection (l) of section 30910 defines “part-time” and “part-time basis” to mean part-time employment as determined by the employing regionally accredited California college or university. This is necessary because Education Code sections 70101(b), 70101(c)(6) and 70103 require a program participant to agree to teach in an accredited California college or university full-time, or for the part-time equivalent, to qualify for loan payments by CSAC. California colleges and universities have different standards by which they determine

whether an employee is working part-time, and these standards apply for purposes of determining retirement and other employment rights. Rather than imposing a different definition solely for program purposes, it is more efficient, and not inconsistent with the purposes of the program, to accept the employing California college's or university's standard for part-time employment.

Subsection (m) of section 30910 defines "program" to mean the State Nursing Assumption Program of Loans for Education for Nursing Faculty, established in Education Code section 70100 et seq. This simplifies the references to the program throughout the Article.

Subsection (n) of section 30910 defines "program participant" as an individual who has a loan assumption agreement signed by both the individual and the Commission. This is necessary to distinguish a participant who has been selected and has an executed agreement with the Commission for loan payments, from an individual who has submitted an application to his or her participating institution, and from an applicant who has been nominated to participate by a participating institution, but has not been selected by CSAC.

Subsection (o) of section 30910 defines "regionally accredited California college or university." This definition clarifies that a regionally accredited California college or university must have a location in California and be accredited by a regional accrediting body. This is necessary because Education Code sections 70102(b) and 70103 require a program participant to teach in a regionally accredited California college or university to qualify for loan payments.

Subsection (p) of section 30910 defines "satisfactory academic progress" to mean academic standing consistent with the requirements of the accredited college or university for satisfactory progress toward the award of a graduate or undergraduate degree. This definition is necessary to clarify Education Code sections 70101(a)(3) and (c)(3), which require program participants to agree to, and to maintain, satisfactory academic progress.

Subsection (q) of section 30910 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 federal Family and Medical Leave Act of 1993. This is necessary to clarify Education Code section 70104(b), which provides that a program participant who fails to fulfill his or her teaching commitment due to serious illness, pregnancy or other natural causes is eligible for an extension of the loan assumption agreement not to exceed one academic year.

Section 30911 – Application to Participate in the Program

This section specifies the content of an application to participate in the program. This is necessary to provide student applicants with guidance on the eligibility requirements for the program, and to ensure that each application contains sufficient information for the participating institution to evaluate the applicant for nomination, consistent with Education Code section 70105, and for CSAC to determine whether to select the applicant for participation. The regulation also specifies that CSAC will establish a deadline each year for

application to the program, to assure that it can select the most qualified applicants in the event there are more applicants than can be selected for participation.

Subsection (a) of section 30911 – This section specifies personal information that must be submitted by each applicant that is necessary for CSAC to identify each applicant separately from any other applicant, to contact the applicant, and to determine “demonstrated financial need” of undergraduate students as required by Education Code section 70105 (b). CSAC also requires applicants to provide information regarding whether they have been licensed as a registered nurse, in order to consider this information as a factor in selecting the most qualified participants, pursuant to the authority granted to CSAC in Education Code section 70105(c).

Subsection (b) of section 30911 – This section specifies information that each applicant must submit to ensure that each applicant meets the eligibility requirements for program participation established by Education Code sections 70101, 70102 and 70103. The proposed regulation specifies that the applicant must obtain an undergraduate or graduate degree in nursing or a related field. This is necessary to ensure that the applicant will be qualified to teach nursing studies, as required for program participation.

Subsection (c) of section 30911 – 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 included in the application, if requested. This is necessary to obtain information with a degree of reliability to justify the expenditure of State funds for making payments for the applicant’s student loans.

Section 30912 – Nominations by a Participating Institution

Subsection (a) of section 30912 – This section specifies that a participating institution may choose to nominate one or more student-applicants to participate in the program. This is consistent with Education Code section 70105, which specifies that CSAC will accept nominations from accredited colleges and universities. The regulation also specifies that nominations must be submitted to CSAC by an established deadline each year to assure that it can select the most qualified applicants in the event there are more applicants than can be selected for participation.

This section also specifies the information to be included in a participating institution’s nomination of an applicant to participate in the loan assumption program. This is necessary to ensure that CSAC receives the information necessary to select participants consistent with the eligibility criteria in Education Code section 70101 the selection criteria in proposed section 30913.

Subsection (b) of section 30912 – This section requires each nomination to be signed by the director of the participating institution’s nursing program, or designee, under penalty of perjury. This section clarifies who must sign the nomination, and is also necessary to obtain information with a degree of reliability to justify the expenditure of State funds for making payments for the applicant’s student loans.

Section 30913 – Award Process

This section specifies the process by which CSAC will select and the criteria to be used in selecting participants from the nominations submitted by participating institutions.

Subsection (a) of section 30913 – This section specifies that CSAC will select participants from those nominated by an established deadline each year to assure that it can select the most qualified applicants in the event there are more applicants than can be selected for participation.. The section also provides that if a maximum authorized allocation established by Education Code section 70109 is not exhausted after the award process, CSAC may continue to accept nominations after the deadline and select program participants based on the date the nominations are received by CSAC. This section is necessary to clarify that the selection from among nominated students may continue even after the completion of the initial award process until the maximum authorized allocation is exhausted.

Subsection (b) of 30913 – This section specifies that CSAC will only select nominated undergraduate students who demonstrate financial need and academic ability and graduate students who demonstrate academic ability. This is consistent with the eligibility requirements established in Education Code section 70101(c) and 70105(b). This subsection also specifies how CSAC will determine financial need for undergraduate applicants based on the cost of attendance at the institution and the applicant's expected family contribution, in compliance with Education Code section 70105(b). Using information that is also used in federal financial aid programs will make the process simple for applicants.

Subsection (c) of section 30913 – This section specifies the criteria CSAC will apply to select graduate participants from among nominations submitted by participating institutions. This is necessary to ensure that all nominations are considered under identical standards. This section is also necessary to clarify the criteria authorized by Education Code section 70105 (b). CSAC will give greater weight to applicants who have demonstrated academic ability based on their grade point average and who are closer to completion of their degree and therefore closer to obtaining employment as nursing faculty.

Subsection (d) of section 30913 - This section specifies the criteria CSAC will apply to select undergraduate participants from among nominations submitted by participating institutions. This is necessary to ensure that all nominations are considered under identical standards. This section is also necessary to clarify the criteria authorized by Education Code section 70105(b). CSAC will give greater weight to applicants who have demonstrated academic ability based on their grade point average and who are closer to completion of their degree and therefore closer to obtaining employment as nursing faculty.

Subsection (e) of section 30913 – This section specifies that CSAC will give additional points to applicants who have an active registered nurse license. CSAC has determined that this is an appropriate factor to consider in selecting the most qualified participants, pursuant to the authority granted to CSAC in Education Code section 70105(c).

Subsection (f) of section 30913 – This section specifies that CSAC will select nominees with the highest point totals. This is necessary to clarify how the selection criteria will be used. The section also provides that in case of a tie, CSAC will select nominees based on the

earliest date of expected graduation date and in the case of a secondary tie, by the highest GPA. This is necessary to provide clarity on how CSAC will choose from among equal scores when remaining awards are limited.

Section 30914 – Loan Assumption Agreements

This section specifies the process and content of loan assumption agreements that will be provided to applicants upon their selections by CSAC to participate in the program.

Subsection (a) of section 30914 – This section requires CSAC to provide a loan assumption agreement to each applicant who has been selected to participate, but specifies that the loan assumption agreement is not effective until it is signed by both the applicant and CSAC. This section is consistent with Education Code section 70103, which requires CSAC to enter into agreements with participants, clarifies that a signed agreement is necessary for participation, and clarifies the effective date of the loan assumption agreement.

Subsection (b) of section 30914 – This section establishes the contents of the loan assumption agreement. Subsection (b)(1) is necessary to assure participants are informed of their obligations, consistent with Education Code sections 70101 and 70103. This section is also necessary to assure that CSAC receives the information from the participant, the participant's school, the lenders holding the participant's educational loans, and the participant's employers necessary to administer the program and the loan assumption agreement. Subsection (b)(2) specifies the conditions under which CSAC is authorized to make loan payments, consistent with Education Code section 70103.

Subsection (c) of section 30914 – This section provides that the term of the loan assumption agreement shall be no more than 10 years from the date signed by the program participant and CSAC. This is consistent with the requirement in Education Code section 70103(e).

Subsection (d) of section 30914 – This section establishes that the loan assumption agreement constitutes a conditional warrant that may be redeemed under conditions specified in section 30915. This section is necessary to clarify Education Code sections 70102 and 70103 regarding when payments will be made by CSAC. This subsection also specifies that a participant may have only one loan assumption agreement, consistent with Education Code section 70101(d).

Section 30915 – Loan Payments

This section specifies the process by which program participants may redeem their conditional warrants (loan assumption agreements) and CSAC may make loan payments on behalf of the program participants.

Subsection (a) of section 30915 – This section specifies the information that a program participant must provide to CSAC before CSAC can begin making loan payments. This section is necessary to ensure compliance with the conditions for loan payments by CSAC established in Education Code sections 70102 and 70103, and to obtain information to identify each participant separately from every other participant and to enable CSAC to determine, process, and pay the appropriate amount of loan payment.

Subsection (b) of section 30915 – This section establishes that a program participant who teaches on a less than full-time basis is not eligible for loan payments until he or she teaches for the equivalent of a full-time academic year. This section is consistent with Education Code section 70101(c) (7).

Subsection (c) of section 30915 – This section specifies that loan payments are to be paid by CSAC in a lump sum, which is to be applied directly to the principal balance, that payments will first be made toward loans with the highest interest rates, and that program participants must continue to make payments as required under the terms of the loans to avoid defaulting on the loans. This section is necessary to clarify the method for loan payment by CSAC and to clarify program participants' continuing obligations on their loans.

Section 30916 – Failure to Comply with the Loan Assumption Agreement

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

Subsection (a) of section 30916 – This section specifies that a program participant who fails to meet the conditions for payment in the loan assumption agreement, including failure to complete the required three consecutive academic years of teaching nursing studies on a full-time basis, or the equivalent on a part-time basis, will not qualify for loan payment. The loan assumption agreement shall be deemed terminated and the Commission shall not make any further payments. The participant shall retain responsibility to continue to make any payments required for any remaining loan obligations under the terms of any outstanding loans to avoid defaulting on those loans but shall not be required to repay any loan payments previously made through the program. This section is necessary to clarify the consequences of a program participant's failure to satisfy the obligations included in the loan assumption agreement and to implement Education Code sections 70101, 70102, 70103 and 70104(a).

Subsection (b) of section 30916 – This section establishes that the term of the loan assumption agreement shall be extended for a period of not to exceed one academic year if a program participant becomes unable to complete one of the three years of teaching service on a full-time basis, or the equivalent on a part-time basis due to a serious illness, pregnancy, or other natural causes. This section is consistent with Education Code section 70104(b).

Subsection (c) of section 30916 – This section establishes an extension of the term of the loan assumption agreement equal to the period from the interruption of instruction due to a natural disaster at the employing regionally accredited California college or university to the resumption of instruction. The Commission shall make no further payments under the loan assumption agreement until the applicable teaching requirements specified in Section 70103 have been satisfied. This section is consistent with Education Code section 70104(c).

Section 30917 – Development of Projections for Funding Purposes

This section is necessary to implement the requirement in Education Code section 70106 that CSAC include in its regulations provisions for the development of projections for funding purposes.