

standards used to judge academic progress include all periods of the student's enrollment. Even periods in which the student did not receive FSA funds must be counted.

## PROVISIONS FOR U.S. ARMED FORCES MEMBERS AND FAMILY

### *In-state tuition rates for active duty service members and family attending public institutions*

A public postsecondary school may not charge a member of the armed forces who is on active duty for a period of more than 30 days more than the school's tuition rate for residents of the state. Similarly, the service member's spouse and dependent children are entitled to the in-state tuition rate.

In addition, if the service member, spouse, or dependent child pays the in-state tuition rate, the public institution must allow the person to continue to pay such a rate as long as the individual is continuously enrolled, even if there is a subsequent change in the permanent duty station of the service member to a location outside of the state.

### *Readmission of service members*

A school must promptly readmit a service member with the same academic status as he had when last attending the school or accepted for admission to the school. This requirement applies to any student who cannot attend school due to military service.

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## Definitions

**Military service** (or service in the uniformed services)—Voluntary or involuntary service in the armed forces, including service by a member of the National Guard or Reserve on active duty, active duty for training, or full-time National Guard duty under federal authority, for a period of more than 30 consecutive days under a call or order to active duty of more than 30 consecutive days. This does not include National Guard service under state authority.

**Service member**—someone who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform, service in the uniformed services.

**Appropriate officer**—A warrant, commissioned, or noncommissioned officer authorized to give such notice by the military service concerned.

**Armed Forces**—the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard.

**Active duty**—full-time duty in the active military service of the United States. Active duty includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Active duty does not include full-time National Guard duty.

The student must notify the school of his military service and intention to return to school as follows:

- ♦ *Notification of military service.* The student (or an appropriate officer of the armed forces or official of the Department of Defense) must give oral or written notice of such service to the school as far in advance as is reasonable under the circumstances. This notice does not have to indicate whether the student intends to return to the school and may not be subject to any rule of timeliness. (Timeliness must be determined by the facts in each case.) Alternatively, at the time of readmission, the student may submit an attestation of military service that necessitated his absence from school. No notice is required if precluded by military necessity, such as service in operations that are classified or would be compromised by such notice.
- ♦ *Notification of intent to return to school.* The student must also give oral or written notice of her intent to return to the school within three years after the completion of the period of service. A student who is hospitalized or convalescing due to an illness or injury incurred or aggravated during the performance of service must notify the school within two years after the end of the period needed for recovery from the illness or injury. A student who fails to apply for readmission within these periods does not automatically forfeit eligibility for readmission but is subject to the school's established leave of absence policy and general practices.

A school must designate one or more offices that a student may contact to provide notification of service and notification of intent to return. The school may not require that these notices follow a particular format.

The school must promptly readmit the student into the next class or classes in the program beginning after he provides notice of intent to reenroll, unless he requests a later date or unusual circumstances require the school to admit him at a later date. This requirement supersedes state law—for example, a school must readmit a qualifying service member to the next class even if that class is at the maximum enrollment level set by the state.

The school must admit the student with the same academic status, which means

- ♦ to the same program to which the student was last admitted or, if that exact program is no longer offered, the program that is most similar to that program, unless she chooses a different program;
- ♦ at the same enrollment status, unless the student wants to enroll at a different enrollment status;
- ♦ with the same number of credit hours or clock hours previously completed, unless the student is readmitted to a different pro-

gram to which the completed credit hours or clock hours are not transferable, and

- ♦ with the same academic standing (e.g., with the same satisfactory academic progress status) the student previously had.

If the student is readmitted to the same program, for the first academic year in which he returns, the school must assess the tuition and fee charges that he was or would have been assessed for the academic year during which he left the school. However, if his veterans education benefits or other service member education benefits will pay the higher tuition and fee charges that other students in the program are paying for the year, the school may assess those charges to the student as well.

If the student is admitted to a different program, and for subsequent academic years for a student admitted to the same program, the school must assess no more than the tuition and fee charges that other students in the program are assessed for that academic year.

The cumulative length of the absence and of all previous absences from the school for military service may not exceed five years. Only the time the student spends actually performing service is counted. See the following additional information section for more about cumulative length of absence.

### ***Helping students to be readmitted and when it might not occur***

If the school determines that the student is not prepared to resume the program with the same academic status at the point where she left off or will not be able to complete the program, the school must make reasonable efforts at no extra cost to help her become prepared or to enable her to complete the program. This includes providing refresher courses and allowing the student to retake a pretest at no extra cost.

The school is not required to readmit the student if it determines

- ♦ that there are no reasonable efforts it can take to prepare her to resume the program at the point where she left off or to enable her to complete the program, or
- ♦ that after it makes reasonable efforts (those that do not place an undue hardship on the institution), the student is not prepared to resume or complete the program.

“Undue hardship” means an action requiring significant difficulty or expense considering the overall financial resources of the school and the impact of such action on its operation.

The school has the burden to prove by a preponderance of the evidence that the student is not prepared to resume the program with the same academic status at the point where she left off or that she will not be able to complete the program.

## Readmission for Service Members—Additional Information

### 34 CFR 668.18 (a) General

(3) This section applies to an institution that has continued in operation since the student ceased attending or was last admitted to the institution but did not begin attendance, notwithstanding any changes of ownership of the institution since the student ceased attendance.

(4) The requirements of this section supersede any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by this section for the period of enrollment during which the student resumes attendance, and continuing so long as the institution is unable to comply with such requirements through other means.

### 668.18 (e) Cumulative length of absence.

For purposes of paragraph (c)(1)(ii) of this section, a student's cumulative length of absence from an institution does not include any service—

- (1) That is required, beyond five years, to complete an initial period of obligated service;
- (2) During which the student was unable to obtain orders releasing the student from a period of service in the uniformed services before the expiration of the five-year period and such inability was through no fault of the student; or
- (3) Performed by a member of the Armed Forces (including the National Guard and Reserves) who is—
  - (i) Ordered to or retained on active duty under—
    - (A) 10 U.S.C. 688 (involuntary active duty by a military retiree);
    - (B) 10 U.S.C. 12301(a) (involuntary active duty in wartime);
    - (C) 10 U.S.C. 12301(g) (retention on active duty while in captive status);
    - (D) 10 U.S.C. 12302 (involuntary active duty during a national emergency for up to 24 months);
    - (E) 10 U.S.C. 12304 (involuntary active duty for an operational mission for up to 270 days);
    - (F) 10 U.S.C. 12305 (involuntary retention on active duty of a critical person during time of crisis or other specific conditions);
    - (G) 14 U.S.C. 331 (involuntary active duty by retired Coast Guard officer);
    - (H) 14 U.S.C. 332 (voluntary active duty by retired Coast Guard officer);
    - (I) 14 U.S.C. 359 (involuntary active duty by retired Coast Guard enlisted member);
    - (J) 14 U.S.C. 360 (voluntary active duty by retired Coast Guard enlisted member);
    - (K) 14 U.S.C. 367 (involuntary retention of Coast Guard enlisted member on active duty); or
    - (L) 14 U.S.C. 712 (involuntary active duty by Coast Guard Reserve member for natural or man-made disasters);
  - (ii) Ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;
  - (iii) Ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 12304 of title 10, United States Code;
  - (iv) Ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the Armed Forces (including the National Guard or Reserve); or
  - (v) Called into Federal service as a member of the National Guard under chapter 15 of title 10, United States Code, or section 12406 of title 10, United States Code (i.e., called to respond to an invasion, danger of invasion, rebellion, danger of rebellion, insurrection, or the inability of the President with regular forces to execute the laws of the United States).

### 668.18 (g) Documentation.

- (1) A student who submits an application for readmission to an institution under paragraph (c)(1)(iii) of this section shall provide to the institution documentation to establish that—
  - (i) The student has not exceeded the service limitation in paragraph (c)(1)(ii) of this section; and
  - (ii) The student's eligibility for readmission has not been terminated due to an exception in paragraph (h) of this section.
- (2)(i) Documents that satisfy the requirements of paragraph (g)(1) of this section include, but are not limited to, the following:
  - (A) DD (Department of Defense) 214 Certificate of Release or Discharge from Active Duty.
  - (B) Copy of duty orders prepared by the facility where the orders were fulfilled carrying an endorsement indicating completion of the described service.
  - (C) Letter from the commanding officer of a Personnel Support Activity or someone of comparable authority.
  - (D) Certificate of completion from military training school.
  - (E) Discharge certificate showing character of service.
  - (F) Copy of extracts from payroll documents showing periods of service.
  - (G) Letter from National Disaster Medical System (NDMS) Team Leader or Administrative Officer verifying dates and times of NDMS training or Federal activation.
  - (ii) The types of documents that are necessary to establish eligibility for readmission will vary from case to case. Not all of these documents are available or necessary in every instance to establish readmission eligibility.
- (3) An institution may not delay or attempt to avoid a readmission of a student under this section by demanding documentation that does not exist, or is not readily available, at the time of readmission.

Finally, a student's readmission rights terminate in the case of a dishonorable or bad conduct discharge, general court-martial, federal or state prison sentence, or other reasons as described in 34 CFR 668.18(h).

### ***Executive Order 13607: Principles of Excellence***

On April 27, 2012, the White House issued [EO 13607](#), which created the Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members. The principles apply to all postsecondary schools that receive funding from federal military and veterans educational benefits programs. They strengthen consumer protections for students who receive these benefits and provide access to information to help them make informed choices about their college education. Adoption of the principles is voluntary but encouraged.

The principles describe requirements in the following key areas: (1) providing a standardized cost form, (2) providing federal aid information, (3) aggressive and fraudulent recruiting, (4) state authorization, (5) misrepresentation, (6) incentive compensation, (7) accreditation, (8) readmission, (9) refunds, (10) individual education plans, and (11) academic and financial counseling points of contact.

Title IV schools are likely already complying with many of the principles through their participation in the Title IV programs (for example, the refund requirement). One principle requires institutions to provide affected students with a personalized and standardized form describing the students' educational costs and how those may be covered by financial aid. The College Financing Plan (see the relevant section under "General Student Disclosures" in *Chapter 6*) helps schools satisfy that principle.