

APA-1  
07/04

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. 51302 Department or Agency Alabama Commission on Higher Education

Rule No. 300-4-4-.02

Rule Title: Definition of Terms.

New  X Amend  Repeal  Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

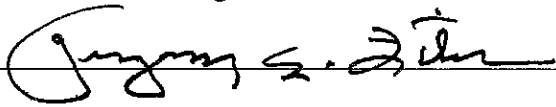
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

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Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date 19 June 2014

APA-2  
07/04

**Alabama Commission on Higher Education**

**NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama Commission on Higher Education (Commission)

RULE NO. & TITLE: 300 – 4 – 4 - .02, Definition of Terms and  
300 – 4 – 4 - .05, Disbursement of Funds

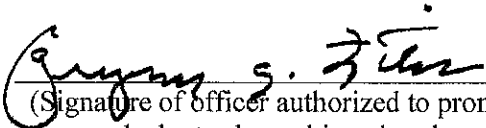
INTENDED ACTION: Amendment

SUBSTANCE OF PROPOSED ACTION: The new rule is intended to provide administrative procedures as regards the Alabama National Guard Educational Assistance Program administered by the Commission. During the 2014 Session of the Alabama Legislature, Act 2014-179 was passed. This act changed the award amounts available to eligible students. In most instances it is believed that students will be able to have access to more funds on an annual basis. This change affects three areas within the administrative procedures. There is also an amendment to add language that was included in the original 1984 legislation, but not included in the administrative code, related to the maximum number of active duty days that a Guardsman can have before they are no longer eligible to participate in the program.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Persons wishing to present views on this new Chapter may contact Tim Vick, Director of Operations and Fiscal Services, Alabama Commission on Higher Education, P.O. Box 302000, Montgomery, Alabama 36130-2000, Telephone 334-353-9153 between 8 a.m. and 5 p.m. each day up to and including August 6, 2014.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: August 6, 2014

CONTACT PERSON AT AGENCY: Tim Vick

  
(Signature of officer authorized to promulgate  
and adopt rules or his or her deputy)

### 300-4-4-.02 Definition Of Terms.

(1) Academic Year: The academic year for Alabama National Guard Educational Assistance Program purposes is from October 1 of one year to September 30 of the next year.

(2) Alabama Resident: A resident of the State of Alabama is a person who has established residency within the State of Alabama prior to the beginning of the term for which financial assistance is requested.

(3) Distribution of Funds: Should funds appropriated to the Alabama National Guard Educational Assistance Program be insufficient to provide each eligible student with a full grant payment for any term(s) during an academic year, funds will be awarded on a first-in, first-out basis until all available funds are expended. For degrees above the baccalaureate level, only ten percent of the total funds of the benefit program may be used.

(4) Educational Grant: A grant is defined as a financial award by the State of Alabama to an Alabama National Guard Educational Assistance Program applicant who is designated to be an eligible student enrolled in or accepted for enrollment in an eligible program at an eligible institution, and is awarded to the student to defray direct educational-related expenses: tuition, mandatory fees, books, and supplies, to a minimum of one hundred dollars (\$100), and not to exceed \$500 per semester or quarter and not more than \$1,000 50 percent of the remaining balance after all federal benefits have been applied to the account of the student, for a total amount not exceeding two thousand dollars (\$2,000) annually, less any Alabama Student Grant Program proceeds for which the student may be eligible. Payments to recipients shall not extend beyond twelve (12) years after the date of the first grant payment issued to the student through this program.

(5) Eligible Program: An eligible program is any program leading to an associate, baccalaureate, master's, or doctorate degree in an accredited institution of higher learning, technical college, community college, or junior college within the State of Alabama.

(6) Eligible Institution: An eligible institution is a public or private institution of higher education which:  
(a) is in Alabama; (b) admits as regular students only persons who have a high school diploma, or who are beyond

the age of compulsory school attendance in Alabama; and who have the ability to benefit from the training offered; (c) is legally authorized to provide an educational program beyond secondary education; (d) provides an educational program for which it awards an associate, baccalaureate, master's, or doctorate degree, (e) is accredited by a nationally-recognized accrediting agency or association; and (f) executes an agreement with the Alabama Commission on Higher Education to participate in the Alabama National Guard Educational Assistance Program.

(7) Eligible Student: An eligible student is an applicant who completes an application for an Alabama National Guard Educational Assistance Program application, and

(a) Is classified as a student enrolled in an associate, baccalaureate, master's, or doctorate degree program;

(b) Is a resident of the State of Alabama, as defined in .02(2);

(c) Is making satisfactory academic progress as determined by the eligible institution;

(d) Is at least seventeen years of age;

(e) Is an active member in good standing with the Alabama National Guard;

(f) Is a member of a federally recognized unit of the Alabama National Guard;

(g) Has completed basic training and advanced individual training, unless excluded from this requirement by military regulations;

(h) Is enrolled in an accredited college, university, community college, or technical college within the State of Alabama; and

(i) Is not receiving 100% of covered expenses from federal veterans educational benefits available to members of the National Guard during the term(s) ANGEAP payments are received.

(j) Any person with more than 180 days active duty under Title 10, United States Code, annotated, and entitled to

federal educational benefits will be considered a veteran and not eligible for benefits under this article.

(8) False Statement or Misrepresentation: Any person who knowingly makes or furnishes any false statement or misrepresentation, or who accepts such false statement or misrepresentation knowing the same to be false, for the purpose of enabling an individual or institution to obtain monies wrongfully under this program, shall be guilty of a Class A misdemeanor, and upon conviction thereof, shall be subject to a fine or to imprisonment, or to both, as such misdemeanor is defined in Act No. 607, S. 33 of the 1977 Regular Session (Acts 1977, Vol. 11, p. 812).

(9) Graduate Student: A graduate student is defined as a person who has already earned a baccalaureate degree and is enrolled in a master's or doctorate degree program at an eligible institution as defined in .02(6).

(10) Refund Policies and Procedures:

(a) If a student transfers, withdraws, or becomes ineligible for an educational grant during the academic term of the award, the institutional-financial aid administrator will not disburse Alabama National Guard Educational Assistance Program grant funds to the student.

(b) If a student withdraws from school or reduces his/her course-load after receiving Alabama National Guard Educational Assistance Program grant funds, but before the end of the academic term, and is not entitled to a refund in accordance with the institution's refund policy, the Alabama National Guard Educational Assistance Program will not require a refund of any portion of the grant award which was utilized by the student toward payment of the institution's net charges to the student for the period of actual attendance. However, if the grant award payment to the student exceeds the amount of the educational cost to the student, the institution must return to the Alabama National Guard Educational Assistance Program the refund amount and the institution must maintain with the student's records documentation listing (a) the date the student withdrew, and (b) the net institutional charges to the student for the period of the student's attendance, (c) the amount of the student's grant award, and (d) the amount of refund due the Alabama National Guard Educational Assistance Program.

(c) In the event the individual's service in the Alabama National Guard is terminated or his service becomes unsatisfactory while receiving or for four (4) years after receiving the benefits afforded by this program the benefits will be terminated and repaid by the individual on a pro rata basis. If the individual's National Guard service is terminated because of military medical disability, mandatory removal date, or death, the member and heirs are exempt from the repayment provision.

(11) Student Application Procedure: Each Alabama National Guard Educational Assistance Program applicant must submit to the Alabama Commission on Higher Education an application for a grant. Awards will be issued for completed applications submitted to the Alabama Commission on Higher Education by the application deadline date and as long as funds remain available.

(12) Tuition: Tuition is defined as the cost of instruction and fees to the student as stated in the institution's catalog, plus the average cost of books and supplies, to a minimum of one hundred dollars (\$100), and not to exceed \$500 per semester or quarter and not more than \$1,000 50 percent of the remaining balance after all federal benefits have been applied to the account of the student, for a total amount not exceeding two thousand dollars (\$2,000) annually.

(13) Undergraduate Student: An undergraduate student is defined as a person who is in attendance at an accredited Alabama postsecondary educational institution and who has not earned a baccalaureate degree. A student who is enrolled in a program of study designed to extend for more than four academic years shall not be considered an undergraduate student in that portion of the program that involves study beyond the fourth academic year, unless the program leads to a first degree and is designed to extend for a period of five academic years.

(14) Veteran: A veteran is defined as any person with more than one hundred eighty (180) days active duty under Title 10, United States Code, Annotated, and entitled to federal educational benefits will be considered a veteran.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 31-10-1, et seq.

**History:** Filed August 28, 1984. Amended: Filed November 6, 1985;

July 15, 1986.