TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 300 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

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? NO

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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 Services Agency.

Signature of certifying officer
Date August 16, 2023

REC'D & FILED
(DATE FILED)
(STAMP)
AUG '23

LEGISLATIVE SVC AGENCY
Alabama Commission on Higher Education
Academic Affairs

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Commission on Higher Education

RULE NO. & TITLE: 300-4-4-.02 Definition of Terms

INTENDED ACTION: The Alabama Commission on Higher Education proposes to amend 300-4-4-.02 Definition of Terms.

SUBSTANCE OF PROPOSED ACTION: The proposed amendments to Administrative Procedures §300-4-4-.02 are intended to reflect changes made to the law for the Alabama National Guard Educational Assistance Program, updating terminology and adding definitions to improve clarity, which adapts existing guidelines into policy.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present views on these amended rules by contacting Dr. Stephanie C. Dolan, Assistant Director of General Services, Alabama Commission on Higher Education, P.O. Box 302000, Montgomery, Alabama 36130-2000, stephanie.dolan@ache.edu, (334) 353-9153, between 8:00 a.m. and 5:00 p.m. CT each business day up to and including October 5, 2023.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: All views must be received by 5:00 p.m. CT on October 5, 2023. A final version of the proposed rules, with any amendments, will be voted on by the Commission at its meeting on October 11, 2023 by 5 p.m.

CONTACT PERSON AT AGENCY:
Dr. Stephanie C. Dolan, Assistant Director for General Services
Alabama Commission on Higher Education
P.O. Box 302000, Montgomery, Alabama 36130-2000
stephanie.dolan@ache.edu, (334)353-9153

(Signature of officer authorized to promulgate and adopt rules or his or her deputy)
300-4-4-.02 Definition Of Terms.

(1) Academic Excellence Benefits: Additional funds for guard members who are enrolled undergraduate students who graduated from high school with a cumulative GPA greater than 3.5 and, while enrolled in an institution of higher education in this state, have maintained a 3.0 collegiate cumulative GPA. These funds can be used for tuition, fees, or ancillary costs.

(2) 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) Active Member: A member of a federally recognized unit of the Alabama National Guard meeting the minimum requirements for satisfactory membership as defined in the Department of the Army and Department of the Air Force regulations.

(4) Alabama National Guard: Federally recognized units of the Alabama National Guard.

(5) Ancillary Costs: Expenses associated with enrollment in an educational program that are not included within the standard assessment of tuition and fees. Ancillary costs may include books, supplies, and professional fees and are typically included within the calculation for cost of attendance. For the purposes of the ANGEAP tuition and fees reimbursement, ancillary costs are not an eligible expense. ANGEAP recipients who qualify for the Academic Excellence Benefits can utilize funds to cover these expenses.

(6) Cost of Attendance: As defined by the U.S. Department of Education, Office of Federal Student Aid, cost of attendance is an estimate of that student’s educational expenses for the period of enrollment, which is used in calculating the total federal student aid a student may receive. Cost of attendance includes tuition and fees, as well as ancillary costs and personal expenses, such as room and board. For the purposes of ANGEAP, not all cost of attendance expenses are considered eligible.
(7) Differential Tuition: A supplementary charge amount added on top of base tuition rate to support additional services and programming for a subset of students enrolled in a particular college or program. Program-specific differential tuition is often charged for those academic programs that have high operating costs. For the purposes of ANGEAP, differential tuition is not considered an eligible expense.

(8) Distribution of Funds: Reimbursement shall be made to the institution promptly at the end of each academic term (quarter or semester) for all certified invoices/vouchers. 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, then the awards will be prorated equally among the institutions on a percentage basis of the total invoices/vouchers received and paid accordingly. For degrees above the baccalaureate level, only ten percent of the total funds of the benefit program may be used.

(9) 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 on a per academic term basis to the student to defray direct educational-related expenses: tuition and cost of instruction fees, not to exceed the average median cost of tuition per semester academic term of all state-supported Alabama four year institutions for classes or courses that count towards the individual’s degree or certificate plan as designed and approved by the college or institution attended for the individual’s declared program of study, less any Alabama Student Grant Program proceeds for which the student may be eligible and after all federal benefits have been applied to the account of the student. The average median tuition amount per semester academic term will be determined by the Alabama Commission on Higher Education based on its Tuition and Fee Report which will be prorated according to academic term. 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.

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

(11) 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 a certificate, 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.

(12) 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 a certificate, associate, baccalaureate, master's, or doctorate degree program;

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

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

(c) Is at least seventeen years of age;

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

(e) Is an active member of a federally recognized unit of the Alabama National Guard;

(f) Has completed basic training, unless excluded from this requirement by military regulations;

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

(h) 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.

(i) Has completed a Free Application for Federal Student Aid (FAFSA), except for high school students dually or concurrently enrolled in high school and an institution of higher education.

(j) Is maintaining at least a 2.0 cumulative grade point average at the end of each academic term or semester;

(k) Is classified as one of the following:

1. Is a student dually or concurrently enrolled in high school and an institution of higher education;

2. Is a postsecondary student who is enrolled in an institution of higher education; or

3. Is a postsecondary student who is dually or concurrently enrolled in more than one institution of higher education and is enrolled in a program leading to a qualifying academic pathway, including a short certificate or long certificate, or associate, baccalaureate, master’s, or doctorate degree in an accredited institution of higher learning, including a community or technical college within the State of Alabama.

(l) Is in pursuit of his/her first undergraduate or graduate degree. Students may continue to receive ANGEAP if they obtain an associate degree and then transfer to a senior institution in order to complete a baccalaureate degree. ANGEAP will not pay for multiple degrees at the same degree award level (i.e., certificate, associate degree, baccalaureate degree, master’s degree or doctoral degree).

(13) 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 (Acts1977, Vol. 11, p. 812).
(14) 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(16).

(15) Mandatory Instructional Fees: Fees that are assessed to all students within a given degree level (undergraduate or graduate) as a condition of enrollment for a given term, regardless of the specific program of instruction. Such fees may include mandatory student fees, technology fees, or academic facilities fees. For the purposes of ANGEAP tuition and fees reimbursement, mandatory instructional fees are considered an eligible expense.

(16) Qualifying Academic Pathway: A postsecondary program at an institution of higher education in the state that is one of the following:

(a) A program that has been identified as a Pell Grant eligible program for which the student earns credits required for a postsecondary degree at the undergraduate level.

(b) A graduate program that is the individual's first degree sought at that level.

(17) Professional Fees: Non-instructional expenses that are specific to a subset of students enrolled in particular college, academic program, or academic classification (freshman, sophomore, junior, senior) and do not apply to all students enrolled in a given degree level (undergraduate or graduate). Examples include but are not limited to graduation fees, examination fees, and clinical/practicum fees. For the purposes of ANGEAP tuition and fees reimbursement, professional fees are not considered an eligible expense. ANGEAP recipients who qualify for the Academic Excellence Benefits can utilize funds to cover these expenses.

(18) Program-Specific Fees: Additional fees specific to certain academic programs or courses of study. These fees are charged in addition to the standard tuition fees and are meant to cover the costs associated with offering specialized programs or courses. For the purposes of ANGEAP tuition and fees reimbursement, program-specific fees are not considered an eligible expense. ANGEAP recipients who qualify for the Academic Excellence Benefits can utilize funds to cover these expenses.
Refund Policies and Procedures:

(a) If a student transfers, withdraws, or becomes ineligible for an educational grant during the academic term of the award year, 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. Any participating member of the Alabama National Guard Educational Assistance Program shall sign a promissory note or similar document with provisions for the collection and repayment of benefits in the event that the member is disqualified or otherwise becomes ineligible to continue to receive benefits. If the individual's National Guard service is terminated because of military medical disability with a Veterans Administration disability rating of 40 percent or greater, mandatory removal date, or death, the member and heirs are exempt from the repayment provision.

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.

(21) (12) Tuition and Fees: Tuition is defined as the per semester cost of instruction and fees to the student as stated in the institution’s catalog, not to exceed the average cost of tuition per semester of a state-supported Alabama four-year institution for classes or courses that count towards the individual’s degree or certificate plan as designed and approved by the college or institution attended for the individual’s declared program of study, less any Alabama Student Grant Program proceeds for which the student may be eligible and after all federal benefits have been applied to the account of the student. The average tuition amount per semester will be determined by the Alabama Commission on Higher Education based on its Tuition and Fee Report. The per term cost of instruction and mandatory instructional fees to the public or private postsecondary student not to exceed the median cost of tuition per term, such as quarter or semester, of all public four-year institutions of higher education in this state, as reported to the Alabama Commission on Higher Education by state-supported institutions of higher education and appearing on the Tuition Plus Required Fees Report of the Commission, for classes or courses that count towards the individual’s degree or certificate plan as designed and approved by the college or institution attended for the individual's declared program of study. Differential tuition is not included. The median cost of tuition per term will be prorated according to academic term.

(22) (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.

Author: Tim Vick; Stephanie C. Dolan
Statutory Authority: Code of Ala. 1975, §§31-10-1, et seq.