

# Readmission of Servicemembers to Postsecondary Institutions





# Readmission of Servicemembers

- Higher Education Opportunity Act of 2008
- Effective upon enactment, August 14, 2008
- Institutions required to make a good faith effort to comply
- Final regulations published October 29, 2009, effective July 1, 2010
- Statute/regulations based on USERRA





# Readmission of Servicemembers

## Purpose

To minimize the disruption to the lives of persons performing service in the uniformed services, allowing a student to return to an institution without penalty for having left because of such service.



# Readmission of Servicemembers

- May not deny readmission to a servicemember
- Must promptly readmit servicemembers with the same academic status
- Supersede State law/any other matter that reduces any right or benefit of these rules



# Readmission of Servicemembers

To which institutions does this apply?

- Any postsecondary institution that participates in a Title IV, HEA student financial aid program: Pell Grants • Federal Supplemental Educational Opportunity Grants • Federal Work-Study • Federal Stafford Loans • Federal PLUS Loans • Federal Perkins Loans • Academic Competiveness Grants • National Science and Mathematics Access to Retain Talent (SMART) Grants • Teacher Education Assistance for College and Higher Education (TEACH) Grants • Leveraging Educational Assistance Partnership Program
- If institution has changed ownership and Title IV participation continued, these rules continue to apply



# Readmission of Servicemembers

To whom does this apply?

- Anyone 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
- Was admitted to the institution, then left the institution to perform such service, even if did not begin attendance





# Readmission of Servicemembers

To whom does this apply?

Service in the uniformed services means voluntary or involuntary service in the Armed Forces, including the National Guard or Reserve, on active duty, active duty for training, or full-time National Guard duty under Federal authority, for more than 30 consecutive days under a call or order to active duty of more than 30 consecutive days.





# Readmission of Servicemembers

Not covered

- National Guard service under State authority
- How an institution handles student absences from class to attend training





# Readmission of Servicemembers

What does promptly readmit mean?

Promptly readmit means that an institution must readmit the student into the next class or classes in the student's program beginning after the student provides notice of his or her intent to reenroll, unless the student requests a later date of readmission, or unusual circumstances require the institution to admit the student at a later date.





# Readmission of Servicemembers

What does promptly readmit mean? (cont.)

For example, a later date of admission would be justified if an institution must make efforts to help the student become prepared to resume the program, and such efforts would not be completed in time for the student to begin the next class.



# Readmission of Servicemembers

What does it mean to readmit a student with the same academic status?

- To the same **program**, unless student requests or agrees to admission to another program (if no longer offered, the program that is most similar)
- At the same **enrollment status** (e.g., full-time), unless student requests or agrees to different enrollment status



# Readmission of Servicemembers

What does it mean to readmit a student with the same academic status? (cont.)

- With the same **number of credit hours or clock hours completed**, unless admitted to different program and hours not transferable
- With same **academic standing** (e.g., satisfactory academic progress status)



# Readmission of Servicemembers

What does it mean to readmit a student with the same academic status? (cont.)

- For the first academic year, same **tuition and fee charges as when left**, *unless* military benefits will pay increase, but never more than charging other students
- For subsequent academic years or a different program—no more than charging other students





# Readmission of Servicemembers

What if the student is not prepared to resume the program where he or she left off, or will not be able to complete the program?

The institution must make reasonable efforts at no extra cost to help the student become prepared, or to enable the student to complete the program including, but not limited to, providing refresher courses and/or allowing a student to retake a pretest.





# Readmission of Servicemembers

What are reasonable efforts?

Reasonable efforts are actions that do not place an undue hardship on the institution. An undue hardship exists if an action requires significant difficulty or expense when considered in light of the overall financial resources of the institution and the impact otherwise of such action on the operation of the institution.



# Readmission of Servicemembers

When is an institution not required to readmit a servicemember?

- Institution determines, after reasonable efforts, that the student is not prepared to resume the program at the point where he or she left off, or is unable to complete the program.
- Institution determines that there are no reasonable efforts it can take to prepare the student to resume at the point where he or she left off, or to enable the student to complete the program.







# Readmission of Servicemembers

When is an institution not required to readmit a servicemember? (cont.)

The institution carries 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 the student left off, or that the student will not be able to complete the program.





# Readmission of Servicemembers

These requirements 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 continues to do so as long as the institution is unable to comply with such requirements through other means.





# Readmission of Servicemembers

- For example, must readmit even if class is at maximum enrollment level set by the institution's State
- Does not supersede, nullify, or diminish any Federal or State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that establishes an individual's right or benefit that is MORE beneficial or in addition to these rules





# Readmission of Servicemembers

What are the conditions for qualification?

An otherwise eligible servicemember qualifies if:

- 1.The school is given notice of absence for service.
- 2.The cumulative length of absences does not exceed five years.
- 3.The student gives notice of his or her intent to return.



# Readmission of Servicemembers

## Condition 1: Notice of absence for service

- May be given by the student or an appropriate officer of the Armed Forces or official of DOD (an appropriate officer is a commissioned, warrant, or noncommissioned officer authorized to give such notice by the military service concerned)
- May be oral or written
- Must be given to the office designated by the school



# Readmission of Servicemembers

## Condition 1: Notice of absence for service (cont.)

- Should be provided as far in advance as is reasonable
- Advance notice not required if precluded by military necessity (e.g., a mission, operation, exercise, or requirement that is classified; or a pending or ongoing mission, operation, exercise, or requirement that may be compromised or otherwise adversely affected by public knowledge)
- If advance notice not given and was not precluded by military necessity, may submit an attestation when seeking readmission that the student performed service that necessitated the student's absence



# Readmission of Servicemembers

## Condition 1: Notice of absence for service (cont.)

- An institution must designate one or more offices that a student may contact to provide notification of absence due to service and notice of intent to return.
- An institution may not require that the notice follow any particular format.
- An institution may not establish a rule for timeliness (e.g., a “brightline” deadline for submission); timeliness must be determined by the facts in a particular case.
- The notice does not need to indicate whether the student intends to return to the institution.



# Readmission of Servicemembers

## Condition 2: Five-year cumulative length of absences

- Includes only the time the student spends actually performing service in the uniformed services
- A period of absence from the institution before, after, or in between performing service does not count (e.g., the period between completing service and returning to the institution)





# Readmission of Servicemembers

## Condition 2: Five-year cumulative length of absences (cont.)

Does not include service--

- Beyond five years to complete an initial period of obligated service
- During which student was unable to obtain orders releasing from period of service before the expiration of the five-year period, through no fault of the student
- Performed by a member of the Armed Forces (including the National Guard and Reserves) who is ordered or retained on active duty under one of the types of duty listed in the regulations (see attachment)



# Readmission of Servicemembers

## Condition 2: Five-year cumulative length of absences (cont.)

Does not include service--

- Performed by a member of the Armed Forces, including the National Guard and Reserve, who is 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 Congress
  - 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, USC



# Readmission of Servicemembers

## Condition 2: Five-year cumulative length of absences (cont.)

Does not include service--

- Performed by a member of the Armed Forces, including the National Guard and Reserve, who is

- 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)

- Called into Federal service as a member of the National Guard under Chapter 15 of Title 10 USC, or section 12406 of Title 10 USC, (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).



# Readmission of Servicemembers

## Condition 3: Notice of intent to return

- May be oral or written
- Must be given to the office designated by the school
- Must be provided not later than three years after the completion of the period of service
- For a student who is hospitalized for or convalescing from an illness or injury incurred in, or aggravated during, the performance of service in the uniformed services, must be provided not later than two years after the end of the period that is necessary for recovery from such illness or injury
- Must provide required documentation



# Readmission of Servicemembers

## Condition 3: Notice of intent to return (cont.)

A student who fails to apply for readmission within the applicable period does not automatically forfeit eligibility for readmission to the institution, but is subject to the institution's established leave of absence policy and general practices.



# Readmission of Servicemembers

## Condition 3: Notice of intent to return (cont.)

A servicemember that provides notice of intent to return must provide documentation to establish that:

- He or she has not exceeded the cumulative 5-year limit on absences from the institution; and
- His or her eligibility for readmission has not been terminated.

See attachment for list of documents that satisfy this requirement.

The types of documents necessary will vary from case to case. Not all of these documents are available or necessary in every instance. An institution may not delay or attempt to avoid readmission of a student by demanding documentation that does not exist, or is not readily available, at the time of readmission.



# Readmission of Servicemembers

## Condition 3: Notice of intent to return (cont.)

- An institution must designate one or more offices that a student may contact to provide notification of absence due to service and notice of intent to return.
- An institution may not require that the notice follow any particular format.



# Readmission of Servicemembers

## Termination of readmission eligibility

A student's eligibility for readmission terminates upon the occurrence of:

- A dishonorable or bad conduct discharge
- A dismissal of a commissioned officer permitted under section 1161(a) of Title 10 USC by sentence of a general court martial, in commutation of a sentence of a general court-martial, or , in time of war, by order of the President
- A dropping of a commissioned officer from the rolls pursuant to section 1161(b), Title 10 USC due to absence without authority for at least three months, separation by reason of a sentence to confinement adjudged by a court-martial, or a sentence to confinement in a Federal or State penitentiary or correctional institution







# Readmission of Servicemembers

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# Readmission of Servicemembers

Five-year cumulative length of absences does not include service performed by a member of the Armed Forces (including the National Guard and Reserves) who is ordered or retained on active duty under:

1. 10 U.S.C. 688 (involuntary active duty by a military retiree);
2. 10 U.S.C. 12301(a) (involuntary active duty in wartime);
3. 10 U.S.C. 12301(g) (retention on active duty while in captive status);
4. 10 U.S.C. 12302 (involuntary active duty during a national emergency for up to 24 months);
5. 10 U.S.C. 12304 (involuntary active duty for an operational mission for up to 270 days);
6. 10 U.S.C. 12305 (involuntary retention on active duty of a critical person during time of crisis or other specific conditions);
7. 14 U.S.C. 331 (involuntary active duty by retired Coast Guard officer);
8. 14 U.S.C. 332 (voluntary active duty by retired Coast Guard officer);
9. 14 U.S.C. 359 (involuntary active duty by retired Coast Guard enlisted member);
10. 14 U.S.C. 360 (voluntary active duty by retired Coast Guard enlisted member);
11. 14 U.S.C. 367 (involuntary retention of Coast Guard enlisted member on active duty); or
12. 14 U.S.C. 712 (involuntary active duty by Coast Guard Reserve member for natural or man-made disasters);



# Readmission of Servicemembers

Documents that satisfy the requirement that a student seeking readmission must provide documentation to establish that (1) he or she has not exceeded the cumulative 5-year limit on absences from the institution; and (2) his or her eligibility for readmission has not been terminated, include, but are not limited to:

1. DD (Department of Defense) 214 Certificate of Release or Discharge from Active Duty.
2. Copy of duty orders prepared by the facility where the orders were fulfilled carrying an endorsement indicating completion of the described service.
3. Letter from the commanding officer of a Personnel Support Activity or someone of comparable authority.
4. Certificate of completion from military training school.
5. Discharge certificate showing character of service.
6. Copy of extracts from payroll documents showing periods of service.
7. Letter from National Disaster Medical System (NDMS) Team Leader or Administrative Officer verifying dates and times of NDMS training or Federal activation.

