

Item 9

(Action Item)

Consideration to approve the proposed regulations for the Learning-Aligned Employment Program (Ed Code section 69950, et seq.)

SUMMARY:

This item provides a description of the proposed regulations for the Learning-Aligned Employment Program (LAEP), including the proposed regulation text, additional regulatory documents, and a description of the regular rulemaking process.

RECOMMENDATION:

Staff recommends the California Student Aid Commission (Commission) approve the proposed regulations and authorize staff to complete the regulatory process, including opening a 45-day public comment period, preparing, and submitting all required documents to Office of Administrative Law (OAL), and making all non-substantive changes to the regulations and supporting documentation resulting from public comment or as requested by OAL.

BACKGROUND:

As of July 29, 2021, the Commission's rulemaking workgroup, comprised of Program Administration and Services Division (PASD) and the Legal Unit, have been reviewing the Commission's regulations and new programs. With the passage of Assembly Bill 132 (Ch.144 Stats 2021), the workgroup drafted the attached proposed regulation text for LAEP. In addition, the Commission regularly hosts a LAEP workgroup, comprised of representatives from public institutions, to develop and implement the program, including receiving stakeholder feedback on the proposed regulations.

Implied or express regulatory authority is needed for the Commission to adopt regulations. The LAEP statute does not include express regulatory authority. As a result, staff sought OAL clarification on the rulemaking authority for this program. OAL confirmed the Commission is provided with implied rulemaking authority over items set forth in Education Code Section 69967.

Education Code Section 69967 provides:

(a) The commission, in consultation with the office of the President of the University of California, the office of the Chancellor of the California State University, and the office of the Chancellor of the California Community Colleges, shall do all of the following:

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(1) Develop and post on its internet website any necessary programmatic policies and guidelines to assist participating employers and public postsecondary educational institutions to operate the program.

(2) Develop processes to facilitate public postsecondary educational institution compliance with the priorities stated in Section 69959.

(3) Develop processes to facilitate the monitoring of institutional expenditures to ensure proper allocation and use of program funds.

Staff has determined that regulations are necessary for the LAEP to incorporate and implement the items prescribed by Education Code Section 69967. The proposed regulations were developed to satisfy these provisions of the Education Code and to establish the LEAP and its administration by the Commission.

Commission approval is required for staff to begin the regulatory process. With the Commission's approval, staff will prepare the regulation package for public review, which includes the proposed text, Initial Statement of Reasons, the STD 399 Fiscal Impact Statement, and the Notice of Proposed Regulatory Action. These documents will be made available for a 45-day public review and comment period through the Office of Administrative Law's California Regulatory Notice Register and on the Commission's website.

The rulemaking process requires, at a minimum, a 45-day public comment period. The Commission may also elect to hold a public hearing on a proposed rulemaking action. If the Commission does not schedule a public hearing, any interested person can submit a written request for one to be held. The written request for a hearing must be submitted at least 15 days prior to the close of the written public comment period, and the agency must give notice of and hold a public hearing. After the initial 45-day public comment period, the Commission may decide to change its initial proposal either in response to public comments received or on its own initiative. If changes to the initial regulations are made, the Commission shall decide whether the changes necessitate an additional public comment period. Depending on whether the change is non-substantial or substantial, an additional comment period of either 15-days or 45-days may be required.

The Commission must summarize and respond on the record to timely comments that are directed at the proposal or at the procedures followed by the agency during this process. With each comment, the agency must either (1) explain how it has amended the proposal to accommodate the comment, or (2) explain the reasons for making no change to the proposal.

The summary and response to comments are part of the rulemaking file and are included in the Final Statement of Reasons that is submitted to OAL. Once the complete rulemaking file is submitted to OAL, OAL has 30 working days to conduct its review. OAL must review the rulemaking record to determine whether it demonstrates that the Commission satisfied the procedural requirements of the APA and complied with the appropriate legal standards. Once OAL has completed its review, and assuming the Commission has met its obligations, OAL files the regulation with the Secretary of State and the regulations become effective.

Staff recommends the Commission adopt the proposed regulations and authorize staff to complete the regulatory process including initiating the 45-day public

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comment period, preparing and submitting all required documents to the OAL, and making any non-substantive changes to the regulations and supporting documentation requested by OAL.

RESPONSIBLE PERSON(S):

Julia Blair, General Counsel
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Tae Kang, Deputy Director
Program Administration and Services Division

Libby Rafferty, Specialized Program Manager
Program Administration and Service Division

ATTACHMENT(S):

LAEP Regulation Timeline
OAL Regular Rulemaking Process
2022-2031 LAEPA
Draft Resolution for LAEP
Notice of Proposed Rulemaking
Initial Statement of Reasons
Text of Proposed Regulations