

## 34 CFR § 668.18 - Readmission requirements for servicemembers

### § 668.18 Readmission requirements for servicemembers.

#### (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.

(b) ***Service in the uniformed services.*** For purposes of this section, service in the uniformed services means service, whether voluntary or involuntary, 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.

#### (c) *Readmission procedures.*

(1) Any student whose absence from an institution is necessitated by reason of service in the uniformed services shall be entitled to readmission to the institution if—

(i) Except as provided in [paragraph \(d\)](#) of this section, the student (or an appropriate officer of the Armed Forces or official of the Department of Defense) gives advance oral or written notice of such service to an office designated by the institution, and provides such notice as far in advance as is reasonable under the circumstances;

(ii) The cumulative length of the absence and of all previous absences from that institution by reason of service in the uniformed services, including only the time the student spends actually performing service in the uniformed services, does not exceed five years; and

(iii) Except as provided in [paragraph \(f\)](#) of this section, the student gives oral or written notice of his or her intent to return to an office designated by the institution—

(A) For a student who completes a period of service in the uniformed services, not later than three years after the completion of the period of service; or

(B) 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, not later than two years after the end of the period that is necessary for recovery from such illness or injury.

**(2)**

- (i)** An institution must designate one or more offices at the institution that a student may contact to provide notification of service required by [paragraph \(c\)\(1\)\(i\)](#) of this section and notification of intent to return required by [paragraph \(c\)\(1\)\(iii\)](#) of this section.
- (ii)** An institution may not require that the notice provided by the student under paragraph (c)(1)(i) or (c)(1)(iii) of this section follow any particular format.
- (iii)** The notice provided by the student under [paragraph \(c\)\(1\)\(i\)](#) of this section—
  - (A)** May not be subject to any rule for timeliness; timeliness must be determined by the facts in any particular case; and
  - (B)** Does not need to indicate whether the student intends to return to the institution.
- (iv)** For purposes of [paragraph \(c\)\(1\)\(i\)](#) of this section, an “appropriate officer” is a commissioned, warrant, or noncommissioned officer authorized to give such notice by the military service concerned.

**(d) *Exceptions to advance notice.***

**(1)** No notice is required under [paragraph \(c\)\(1\)\(i\)](#) of this section if the giving of such notice is precluded by military necessity, such as—

- (i)** A mission, operation, exercise, or requirement that is classified; or
- (ii)** A pending or ongoing mission, operation, exercise, or requirement that may be compromised or otherwise adversely affected by public knowledge.

**(2)** Any student (or an appropriate officer of the Armed Forces or official of the Department of Defense) who did not give advance written or oral notice of service to the appropriate official at the institution in accordance with [paragraph \(c\)\(1\)](#) of this section may meet the notice requirement by submitting, at the time the student seeks readmission, an attestation to the institution that the student performed service in the uniformed services that necessitated the student's absence from the institution.

**(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).

**(f) Notification of intent to reenroll.** A student who fails to apply for readmission within the periods described in [paragraph \(c\)\(1\)\(iii\)](#) of this section 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.

**(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.

**(h) *Termination of readmission eligibility.*** A student's eligibility for readmission to an institution under this section by reason of such student's service in the uniformed services terminates upon the occurrence of any of the following events:

**(1)** A separation of such person from the Armed Forces (including the National Guard and Reserves) with a dishonorable or bad conduct discharge.

**(2)** A dismissal of a commissioned officer permitted under [section 1161\(a\)](#) of title 10, United States Code 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.

**(3)** A dropping of a commissioned officer from the rolls pursuant to [section 1161\(b\)](#) of title 10, United States Code 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.

(Approved by the Office of Management and Budget under control number 1845-NEW1)

(Authority: [20 U.S.C. 1088](#), *et seq.*)

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