



The State University
of New York

Office of the Chancellor

State University Plaza
Albany, New York 12246

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MEMORANDUM

September 10, 2015

TO: Members of the Board of Trustees

FROM: Nancy L. Zimpher, Chancellor

SUBJECT: Amendment to 8 NYCRR Part 602.10 (College Tuition and Fees)

Action Requested

The proposed resolution authorizes the filing of an emergency rulemaking and the publication of a Notice of Proposed Rulemaking to amend the community college regulations.

Resolution

I recommend that the Board of Trustees adopt the following resolution:

Whereas the federal law entitled *Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014* requires that institutions of postsecondary education provide in-state tuition rates for courses taken by certain enrolled veterans and their dependents; and

Whereas Chapter 328 of the Laws of New York of 2014 amends subdivision 8 of Section 6305 of the New York State Education Law to provide that "[a]ny student attending a community college in accordance with the federal GI bills and in compliance with all applicable eligibility requirements thereof, whether or not a resident of this state, shall be charged the tuition rate for residents as approved by the state university trustees"; and

Whereas New York State Education law §6305(8) affords resident tuition rates to active duty members of the armed

forces, and their dependents, who are stationed in New York State;

Whereas it is the intent of both the state and federal statutes referenced above that current members of the armed forces, qualified veterans, and their respective, eligible dependents pay the resident rate of tuition regardless of their New York State residency status; and

Whereas the current community college regulations need to be amended to reflect these changes in state and federal law; now, therefore, be it;

Resolved that the Chancellor or designee, be, and hereby is, authorized and directed to prepare, in accordance with the provisions of the State Administrative Procedure Act, a Notice of Emergency Adoption and Proposed Rule Making to amend Title 8 of the Official Compilation of Codes, Rules, and Regulations of the State of New York by adding a new section (g) and re-lettering as follows (underling denotes new material to be added, brackets denote deletions):

(g) Resident Tuition for Military Personnel and Dependents. Notwithstanding New York State resident status, the following individuals shall be charged the resident rate of tuition as approved by the state university trustees:

1. Any student attending a community college who is a member or the spouse or dependent of a member of the armed forces of the United States on full-time active duty and stationed in New York State;
2. Any student attending a community college in accordance with the federal GI bills and in compliance with all applicable eligibility requirements thereof; and
3. Veterans and their dependents covered under the Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014, 38 U.S.C. §3679, who are living in New York State while pursuing a course of education at a community college with assistance under chapter

30 or 33 of Title 38 of the U.S. Code. A covered veteran under 38 U.S.C. §3679 is one who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than three years before the date of enrollment in the course at the community college. A covered dependent is one who is entitled to assistance under 38 U.S.C. §3311(b)(9) or §3319 by virtue of his or her relationship to a covered veteran.

~~[(g)]~~ (h) Tuition payments are to be recorded for all students except citizens 60 years of age or over who are auditing courses on a space-available basis.

[(h)] (i) Student revenue surpluses. With the exception of the excess student revenues expended as provided in section 602.8(d)(2) of this Part, when a college has accrued excess student revenues, the college when submitting its annual financial report shall submit a plan of action that will effectively reduce the surplus each successive year and eradicate it within five years.

[(i)] (j) Tuition limitations.

(1) To the extent authorized by law, community colleges may increase tuition and fees above that allowable under paragraph d of section 6304 of the Education Law, provided the local sponsor's contribution either in the aggregate or per full time equivalent student shall be no less than the comparable actual rates for the previous community college fiscal year.

(2) Tuition rates shall not exceed the maximum limitations provided in subdivision (c) of this section. However, the State University trustees may, upon a sufficient showing of financial need, approve a tuition rate in excess of the limitations provided in subdivision (c) of this section.

Background

In 2014, the federal government passed legislation to require states to provide resident or in-state tuition to certain veterans and their dependents regardless of their residency status within a particular state. Also in 2014, New York State enacted legislation to amend Education Law §6305(8) to reflect a new category of community college students who would be eligible for resident tuition rates. Such students are those who are attending the institution in accordance with the federal GI bills and are in compliance with all applicable eligibility requirements but are not residents of the state as defined by Education Law. Other recent changes to Education Law §6305(8) afford in-state resident rates to active duty military (including their dependents) who are stationed in New York. The community college regulations are being amended to reflect these changes in state and federal law.