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## SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair

2015 - 2016 Regular

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**Bill No:** SB 418  
**Author:** Morrell  
**Version:** February 25, 2015  
**Urgency:** No  
**Consultant:** Kathleen Chavira  
**Hearing Date:** April 8, 2015  
**Fiscal:** Yes

**Subject:** Public postsecondary education: attendance

### SUMMARY

This bill requires the California State University (CSU) Trustees to amend specific regulations to prohibit cumulative absences from the CSU and the California Community Colleges of five years or less, due to service in the uniformed services, from being considered an interruption in attendance.

### BACKGROUND

Existing federal law establishes readmission requirements for service members attending postsecondary education institutions and specifically prohibits an institution from denying readmission to a person 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 on the basis of that membership, application for membership, performance of service, application for service, or obligation to perform service. An institution is required to promptly readmit the individual with the same academic status as the student had when the student last attended the institution or was last admitted to the institution. Federal regulations require that the cumulative length of the absence (and of all previous absences from that institution by reason of service, including only the time the student spends actually performing service in the uniformed services) does not exceed five years.

(Code of Federal Regulations 34, § 668.18)

Existing law requires each segment of public higher education to establish, and update as necessary, a written policy concerning students who are called to active military service, and specifically requires that the policy ensure that those students do not lose academic credits or degree status, and provide for a refund of fees paid by the student for the term in which he or she was called to active military service.

(Education Code § 66023)

Existing law authorizes the CSU Board of Trustees to adopt rules and regulations for the government of the CSU. Under this authority, the CSU has adopted regulations that provide for the establishment of catalog rights, define continuous attendance, authorize campuses to establish time limits for completing graduation requirements, and provide for changes in requirements when students change majors or minors. Specifically, an undergraduate student at any CSU campus, at any California

community college, or any combination thereof, may elect to meet the graduation requirements in effect at the campus (1) at the time the student began such attendance, (2) at the time of entrance to the campus, or (3) at the time of graduation. Campuses are authorized to require substitutions for discontinued courses and to require a student changing his or her major or minor to complete the requirements in effect at the time of the change. The regulations define "attendance" as attendance in at least one semester or two quarters each calendar year. The regulations prohibit absence due to an approved educational leave or for attendance at another accredited institution of higher learning from being considered an interruption in attendance, if the absence is for two years or less.  
(EC § 890030, California Code of Regulations, Title 5, § 40401)

## ANALYSIS

This bill:

1. Requires the California State University (CSU) to amend regulations regarding time limits for completion of graduation requirements by January 1, 2017.  
More specifically it:
  - A. Requires the regulations to prohibit the cumulative length of an absence and all previous absences from the CSU and the California Community Colleges (CCC) due to service in the uniformed services to be considered an interruption in attendance if the absence is for five years or less.
  - B. Includes in the absence period only the time a student spends actually performing service in the uniformed services.
2. Declares the Legislature's intent to conform specified regulations regarding approved absences for CSU and CCC students to specified federal law.
3. Declares the intent of the Legislature to extend the length of approved absences for students serving in the uniformed services to five years.

## STAFF COMMENTS

1. **Need for the bill.** According to the author, current state regulation only allows for a two year approved absence for students serving in the military while federal law allows for a five year absence. This bill is attempting to address this perceived problem by statutorily directing regulatory changes.
2. **Compliance with Federal law already exists.** As noted in the background of this analysis, federal law establishes readmission requirements for service members attending postsecondary education institutions. According to the CSU, consistent with federal law, on January 10, 2014 campuses were directed to promptly readmit service member students in the same program with the same enrollment and academic status. Campuses were also advised

that student service members may defer their return no later than three years after completing service and may not have a cumulative period of more than five years absence including service. It appears that the California State University (CSU) does comply with federal law requirements regarding readmission.

3. **Statutory direction to amend regulations?** Generally, regulations are adopted to implement statute. This bill implements statute to modify regulations. The stated intent of the author is to ensure compliance with federal laws regarding readmission of service members.

Rather than engage in a somewhat backwards process, **staff recommends** the bill be amended to require compliance with federal law, and authorize the CSU to adopt regulations to implement the statute.

4. **Apples to oranges?** It appears that the intent of the author may be to go beyond federal law requirements. As noted in staff comment #2, the CSU complies with the readmission requirements established by federal law. The Title V regulations referenced in the bill define continuous attendance for the purpose of meeting graduation requirements. Staff was unable to identify any federal law requirements that specifically address graduation and catalog rights.

#### **SUPPORT**

None received.

#### **OPPOSITION**

None received.

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