

Date of Hearing: March 18, 2025

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

ACR 40 (Fong) – As Introduced February 21, 2025

SUBJECT: Student financial aid: Free Application for Federal Student Aid (FAFSA) data

SUMMARY: States the Legislature and the State of California’s commitment to protecting, to the fullest extent of the law, all the data and information provided by students and their families to California’s postsecondary education. Specifically, **this measure:**

- 1) States that the Legislature and the State of California denounces any deportation plans that would disrupt the education of students;
- 2) States that the Legislature and the State of California shall maximize state resources and investments to ensure that all students, regardless if their immigration status or that of their parents or spouse, can access all forms of financial aid available to them, as well as enroll and succeed in postsecondary education;
- 3) States that the Legislature and the State of California are committed to protecting, to the fullest extent of the law, all the data and information provided by students and their families to California’s postsecondary education;
- 4) Requires that the Chief Clerk of the Assembly transmit copies of this resolution to the author(s) (Assemblymember Fong and Assemblymember Celeste Rodriguez) for distribution.

EXISTING LAW: *Federal law.*

- 1) The federal Privacy Act of 1974 (Public Law 93-579, as amended) prohibits the disclosure of an individual’s data from a system of records without written or verbal consent, and the landmark 1982 United States Supreme Court decision, *Plyler v. Doe* (1982) 457 U.S. 202, held that states cannot constitutionally deny students a free public education based on immigration status.
- 2) The Family Educational Rights and Privacy Act (FERPA) is a federal law that affords parents the right to have access to their children’s education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student (“eligible student”). The FERPA statute is found at 20 U.S.C. § 1232g and the FERPA regulations are found at 34 CFR Part 99.

California law.

- 1) Under current law, California declares that the attainment of education for the betterment of the individual and the community is paramount regardless of one’s immigration status, protects undocumented students from fear and discrimination in educational institutions, and

prohibits police from providing or retaining personal information and immigration status for immigration enforcement purposes. (California Education Code [EDC] Sections 220-221.1)

FISCAL EFFECT: Unknown. This measure is keyed non-fiscal by Legislative Counsel.

COMMENTS: *Need for the measure.* As stated by the author, “California’s higher education system and financial aid infrastructure serves millions throughout the state. The Free Application for Federal Student Aid (FAFSA) is the primary form that millions of students use to apply for financial support and afford tuition for college. The FAFSA collects various data, including information on whether or not a student or parent is a U.S. citizen. Unfortunately, due to threats and concerns from actions emanating from the federal government, we have seen a decline in applications which directly threaten the ability of our students to access and complete their education. We must ensure all students have the opportunity to attend and receive a postsecondary education, especially those from underserved communities.

ACR 40 denounces any potential immigration enforcement actions that threaten our students’ education, and reaffirms the state’s commitment towards ensuring access to higher education through all forms of financial aid.”

The urgency to protect California’s students. President Trump’s administration has indicated its intent to declare a national emergency to address illegal immigration through a mass deportation program. The Governor of California has called for, and this Legislature has convened, a special legislative session to fund the legal defense against federal policies that conflict with state law and infringe upon the civil rights of Californians.

Currently, California students have expressed reluctance in filing the Free Application for Federal Student Aid (FAFSA), the primary form used by more than 2,000,000 Californians annually to access state and federal financial aid, over fear that federal authorities will use the newly required self-reported information provided on the application to pursue deportation efforts against them and their parents.

Mixed-status households. California is home to more foreign-born residents than anywhere else in the country, with almost one in three Californians being foreign born and one in two Californian children having at least one immigrant parent. Immigrants play a vital role in all sectors of our state’s economy and are valuable and essential members of the California community. 3,300,000 Californians live in mixed-status households meaning that for financial aid purposes, mixed-status families are those in which the student is a United States citizen or eligible noncitizen and the student’s parent or spouse does not have a social security number.

Importance in continued student success. Deportation and other interruptions in higher education seriously affect college completion, student success, economic mobility, and contributions to California’s economy and society, and higher education has demonstrably improved the lives of individuals and communities through workforce development and innovation contributing to the economy of the state and country. California law declares that the attainment of education for the betterment of the individual and the community is paramount regardless of one’s immigration status, protects undocumented students from fear and discrimination in educational institutions, and prohibits police from providing or retaining personal information and immigration status for immigration enforcement purposes.

Arguments in support. The California Student Aid Commission (CSAC) notes that, “as the state agency responsible for administering state financial aid programs, CSAC is guided by its mission to promote educational equity by making postsecondary education affordable for all Californians, regardless of their immigration status or that of their family. As illustrated in our 2023 *Renewing the Dream* report, California has been a national and steadfast leader in creating educational and financial aid access pathways that have paved the way for hundreds of thousands of students from immigrant backgrounds to access financial aid and succeed in higher education. Our collective efforts to enact such policies have resulted in Californians entrusting us with their financial and personal information for the sole purpose of financial aid administration. Today, more than ever, California students and families expect the utmost protection of their financial aid information.”

Prior Legislation. AB 130 (Cedillo), Chapter 93, Statutes of 2011, allows students who meet AB 540 criteria (California Education Code (CDE) Section 68130.5 (a)) to apply for and receive nonstate, privately-funded scholarship for public colleges and universities.

AB 131 (Cedillo), Chapter 604, Statutes of 2011, allows students who meet the AB 540 criteria to apply and receive state-funded financial aid such as institutional grants, Cal Grant and Chafee Grant.

AB 540 (Firebaugh), Chapter 814, Statutes 2001, allows qualified students, including undocumented, U.S citizens, and permanent residents, to pay in-state tuition at California’s public colleges and universities.

SB 1159 (Lara), Chapter 752, Statutes 2014, requires all 40 licensing boards under the California Department of Consumer Affairs to consider applicants regardless of immigration status by 2016.

REGISTERED SUPPORT / OPPOSITION:

Support

California Student Aid Commission
Chief Executive Officers of The California Community Colleges Board
Faculty Association of California Community Colleges
Student Senate for California Community Colleges

Opposition

None on file.

Analysis Prepared by: Kiersten Wall / HIGHER ED. / (916) 319-3960