

Date of Hearing: January 11, 2022

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1232 (McCarty) – As Amended January 4, 2022

SUBJECT: Community colleges: nonresident tuition fees: English as a second language courses

SUMMARY: Add an exception to the requirement for payment of California Community College (CCC) nonresident tuition for specified students enrolled in a credit English as a second language (ESL) course. Specifically, **this bill:**

- 1) Specifies that a community college district (CCD) may admit, and shall charge a tuition fee to nonresident students, except that a CCD will exempt from all of the fee any person who enrolls in a credit ESL course at a CCC and who is any of the following:
 - a) A recent immigrant, as defined in Section 1101(a)(15) of Title 8 of the United States Code (USC);
 - b) A recent refugee, as defined in Section 1101(a)(42) of Title 8 of the USC; and,
 - c) A person who has been granted asylum by the United States, as defined in Section 1158 of Title 8 of the USC.
- 2) Specifies that this exemption will only apply to individuals who, upon entering the United States, settled in California and who have resided in California for less than one year.
- 3) Specifies that this exemption will only apply to the tuition fee for credit ESL courses.
- 4) Specifies that, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those cost will be made as specified.

EXISTING LAW:

Federal law:

- 1) The Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980, authorizes the admission and resettlement of refugees, which comprise a category of humanitarian admissions and are persons unwilling or unable to return to their home countries "because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." After one year of refugee status in the U.S., refugees are required to apply to adjust to lawful permanent resident (LPR) status. The INA also defines "immigrant" and specifies that noncitizen individuals physically present in the United States, regardless of status, may apply for asylum.

State law:

- 1) Makes the following definitions:

- a) "Resident" is a student who has residence in California for more than one year immediately preceding the residence determination date (Education Code (EDC) Section 68017).
 - b) "Resident classification" means classification as a resident at the University of California (UC), the California State University (CSU), or the CCC (EDC Section 68022).
 - c) "Residence determination date" is a date established by the university or community college district governing boards for each semester or quarter to determine a student's residence (EDC Section 68023).
- 2) Requires each student to be classified as a resident or nonresident (EDC Section 68040).
 - 3) Requires the segment governing boards to adopt regulations for determining a student's residence classification, which are to include provisions requiring the financial independence of a student classified as a nonresident and seeking reclassification as a resident as a factor to be considered in the determination of residency, and establishes financial independence criteria (EC Section 68044).
 - 4) Requires a student classified as a nonresident to pay nonresident tuition in addition to other tuition and fees required by the institution (EC Section 68050).
 - 5) Exempts an Armed Forces member—stationed in the state on active duty for more than one year immediately prior to being discharged—from nonresident tuition at CSU and the CCC for the length of time he or she lives in the state after being discharged up to the minimum time necessary to become a resident (EC Section 68075.5(a)).
 - 6) Exempts specified California nonresidents from paying nonresident tuition at UC, CSU, and CCC, also known as the AB 540 nonresident tuition waiver (Firebaugh), Chapter 814, Statutes of 2001, if they meet all of the following:
 - a) Satisfaction of the requirements of either:
 - i) A total attendance of, or attainment of credits earned while in California equivalent to, three or more years of full-time attendance or attainment of credits; or,
 - ii) Three or more years of full-time high school coursework in California, and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of California elementary and secondary schools.
 - b) Satisfaction of any of the following:
 - i) Graduation from a California high school or attainment of the equivalent thereof;
 - ii) Attainment of an associate degree from a campus of the CCC; or,
 - iii) Fulfillment of the minimum transfer requirements established for the UC or the CSU for students transferring from a campus of the CCC.

- c) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year; and,
 - d) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize the student’s immigration status, or will file an application as soon as the student is eligible to do so. (EDC Section 68130.5).
- 7) Exempts students who are victims of trafficking, domestic violence, and other serious crimes who have been granted a "T" or "U" visa under specified federal law from paying nonresident tuition to the same extent as refugees (EDC Section 68122).
- 8) Exempts a student of the CCC who has a special immigrant visa (SIV) as specified, or is a refugee admitted to the United States as specified, and who, upon entering the United States, settled in California, from paying the nonresident tuition fee required as specified for the length of time he or she lives in this state up to the minimum time necessary to become a resident. (EDC Section 68075.6)

FISCAL EFFECT: Unknown.

COMMENTS: *Purpose.* According to the author, “The population of recent arrivals in California is highly diverse. Immigrants, refugees, and asylum seekers arrive with a wide range of professional qualifications, educational histories, and linguistic backgrounds. According to a 2015 Pew Research Study, 41% of new adult immigrants to the U.S. between 2010 and 2015 had a bachelor’s degree or higher, while 23% had not completed high school.”

“As a result of this diversity, recent immigrants have widely varying goals and motivations for enrolling in ESL courses based on their prior education and career plans. Some students seek to improve their English as a first step towards achieving an associate degree, career certificate, or transfer to a four-year institution while others may enroll in ESL for personal reasons or to improve their job prospects. To maximize positive outcomes for these students, it is important that they have access to ESL courses that fit their unique needs, experience, and goals.”

“This bill removes barriers for recent arrivals in the United States to gain critical English language skills by making credit-bearing ESL courses more affordable. Specifically, the bill establishes a nonresident tuition exemption for recent immigrants, refugees, and asylees to enroll in credit-bearing English as a Second Language courses at CCCs within the first year of their arrival in the U.S.”

Background. For many immigrants and refugees, English proficiency is a significant hurdle that can limit their educational and employment opportunities. This is true even for highly educated immigrants: in 2014, the Migration Policy Institute reported that 23% of college-educated immigrants in the U.S. were in low-skilled jobs or unemployed, and that those with limited English proficiency were five times more likely to be in low-skilled jobs than those who spoke only English. Access to effective ESL programs can facilitate social and economic mobility for nonnative speakers and their families, and is an important first step for many newly arrived immigrants.

Many California community colleges offer both noncredit, and credit bearing ESL courses. Noncredit courses are offered to CCC students at no cost, and they are typically open entry/open exit and final grades are not recorded on student transcripts. Credit bearing ESL courses are offered to CCC students for credit (in some cases transferrable to a 4-year college or university), and students must pay tuition to enroll. Credit-bearing courses are part of a sequence of ESL courses that lead to transfer-level English classes, and are the appropriate path for students who seek to earn a degree or transfer to a degree-granting institution.

According to the 2019 PPIC report *English as a Second Language in California's Community Colleges*, credit bearing, or "sequence" courses in ESL typically focus on reading (54%) and writing (80%) skills, or integrate the two. Relatively few of these courses teach listening, speaking, and/or grammar, but most students (53%) who enroll in sequence courses at some point in their community college career also enroll in noncredit courses that offer these additional skills.

Refugees. The admissions process for refugees is separate from and different than the process for immigrants. Each year, the President submits a report to Congress, which contains the Administration's proposed worldwide refugee ceiling and allocations among regions of the world for the upcoming federal fiscal year (FFY). Following congressional consultations, the President issues a determination setting refugee number for that year. Recent annual totals are: FFYs 2013 through 2015 (70,000 annually); FFY 2016 (85,000); FFY 2017 (50,000); FFY 2018 (45,000); FFY 2019 (30,000); FFY 2020 (18,000); FFY 2021 (62,500); and FFY 2022 (125,000). Upon entry, refugees are eligible for transitional assistance activities, including cash and medical assistance for up to eight months and various social services to help refugees become socially and economically self-sufficient.

Committee comments. Staff notes that refugees are currently granted an exemption from paying nonresident fees in a manner nearly identical to the provisions of this legislation. Moving forward, *the author may wish to consider deconflicting the references in the EDC to ensure that all individuals with "refugee" status are covered.*

Prior legislation. AB 343 (McCarty), Chapter 491, Statutes of 2017, provided CCC students nonresident tuition exemption for refugees and SIV holders.

AB 1899 (Mitchell), Chapter 509, Statutes of 2012, exempted from nonresident tuition and provided eligibility for student financial aid benefits, to the same extent as refugees, to students who are victims of trafficking, domestic violence, and other serious crimes who have been granted a "T" or "U" visa under specified federal law.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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