

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 1540 (Mike Fong) – As Amended April 10, 2023

**SUBJECT:** Postsecondary education: nonresident tuition: exemption.

**SUMMARY:** Requires the California State University (CSU) and the California Community Colleges (CCC), and requests the University of California (UC) and independent institutions of higher education (ICCU), to accept an affidavit provided to the California Student Aid Commission (CSAC) as part of the student's financial aid application for purposes of the affidavit requirement, as specified. Specifically, **this bill:**

- 1) Stipulates that if an institution of higher education (IHE), as enumerated in the summary above, accepts an affidavit, the IHE shall not require a student to file a separate affidavit. The IHE will still be able to verify the information provided on the affidavit, as the IHE deems necessary.
- 2) Authorizes the IHE to provide an affidavit for students who do not apply for state financial aid to submit, for the purposes of complying with existing law, [which stipulates that in the case of a person without lawful immigration status, the student must file an affidavit with the IHE 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].
- 3) Expresses that ICCU has the same meaning as in existing a law (as addressed in the *Existing Law* section of this analysis).

**EXISTING LAW:**

- 1) Establishes the Donahoe Higher Education Act, setting forth the mission of the UC, CSU, and CCC; and, defines "independent institutions of higher education" as nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations in California and are accredited by an agency recognized by the United States Department of Education (Education Code (EC) Section 66010, et seq.).
- 2) Establishes the CSAC for the purpose of administering specified student financial aid programs (EC Section 69510, et seq.)
- 3) Exempts California nonresident students, via AB 540 (Firebaugh, Chapter 814, Statutes of 2001), regardless of citizenship status (also referred to as AB 540 student), from paying nonresident tuition at California public colleges and universities who meet all of the following requirements:
  - a) Satisfied requirements of either (i) or (ii):
    - 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 at any of the following:

- (1) California high schools;
  - (2) California high schools established by the State Board of Education;
  - (3) California adult schools established by any of the following entities:
    - (a) A county office of education;
    - (b) A unified school district or high school district; and,
    - (c) The Department of Corrections and Rehabilitation.
  - (4) Campuses of the CCC.
  - (5) A combination of those schools set forth in (1) to (4), inclusive.
- 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) Satisfied any of the following:
- i) Graduation from a California high school or attainment of the equivalent;
  - ii) Attainment of an associate degree from a campus of the CCC; and/or,
  - iii) Fulfillment of the minimum transfer requirements established for UC or CSU for students transferring from a campus of the CCC
- c) Stipulates that in the case of a person without lawful immigration status, the student must file an affidavit with the IHE 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 (EC Section 68130.5).
- 2) Provides that a student who meets the nonresident tuition exemption requirements under EC Section 68130.5 or who meets equivalent requirements adopted by the UC is eligible to apply for any financial aid program administered by the state to the full extent permitted by federal law (EC Section 69508.5).
  - 3) Provides that a student attending a CCC, CSU, or UC who is exempt from paying nonresident tuition under EC Section 68130.5 is eligible to receive a scholarship derived from non-state funds received, for the purpose of scholarships, by the segment (i.e. CCC, CSU, or UC) at which the student is enrolled (EC Section 66021.7).

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Background on AB 540 Affidavit.* In 2001, AB 540 (Firebaugh) was signed into law [as fully described in the *Existing Law* section of this analysis], exempting eligible students,

regardless of their documentation status, from paying nonresident or out-of-state tuition if students meet certain criteria, including spending three or more years in a California high school, graduating from a California high school, and signing an affidavit promising to adjust their immigration status as soon as they are eligible to do so.

Since the enactment of AB 540, several legislative measures have modified or expanded eligibility for the exemption from nonresident tuition in order to better accommodate the diverse student population.

Under current law, CSAC is only permitted to provide undocumented students with state financial aid if they apply for aid through the California Dream Act Application (CADAA).

*The CADAA.* In 2011, AB 131(Cedillo), Chapter 604, Statutes of 2011, allowed students with AB 540 status to apply and be eligible for state financial aid such as the Cal Grant. AB 131 also charged CSAC with establishing and administering procedures and forms to enable eligible undocumented students' access to state aid. As a result, CSAC developed the CADAA and made it available to students in Fall 2012. Aid was dispersed for CADAA applicants in the Summer of 2013.

According to CSAC, more than half of California's undocumented students (approximately 53%), do not fill out the CADAA. Further, according to 2021-22 CSAC data, among undocumented students in postsecondary education who do fill out a CADAA, only 30% ultimately enroll and receive state financial aid. Additionally, only 14% of California's estimated undocumented student population in postsecondary education receives financial aid to support their higher education goals.

The table below shows the number of CADAA Applications versus AB 540 Students by Segment for 2021-22:

Public Segment	Number of CADAA Applicants	Number of AB 540 Students
CCC	11,529	62,417
CSU	6,877	9,500
UC	3,386	4,469

At each of the public segments of higher education, many students are submitting AB 540 affidavits, but do not fill out the CADAA. At the CCC, close to 50,000 students did not submit a CADAA, despite having secured AB 540 status. While it is unclear why this data is alarmingly low, according to CSAC, one possible solution to this issue is that AB 540 status (not CADAA submission) is a pre-requisite for eligibility for a CCC Promise Grant, which waives tuition and fees; students may not be aware of their eligibility for additional state aid, like the Cal Grant, through the CADAA.

However, students that submit a CADAA ultimately still cannot receive in-state tuition rates, nor state financial aid, if they do not complete the AB 540 affidavit process.

*Purpose of this measure.* As aforementioned, existing law requires that the AB 540 affidavit only be submitted to the IHE an undocumented student attends; however, the CADAA is submitted to CSAC. Requiring students to complete the CADAA and then the AB 540 affidavit is a two-step process that is often expected for undocumented students to figure out on their own, having to navigate a labyrinth of multiple websites, documents, and entities on and off-campus.

This measure authorizes CSAC to collect the AB 540 affidavit with the CADAA form. The CSAC would forward the AB 540 affidavit to the IHE the student will enroll.

According to the author, “as a former trustee of the Los Angeles Community College District, it’s important to me to ensure that all students have an opportunity for learning, especially underserved communities. I worked to establish ‘Dream Centers’ and ‘DACA and Undocumented Financial Aid Workshops’ to support our undocumented students as equitably as possible.”

Further, the author states that, “AB 1540 will streamline the process that undocumented students use to apply for in-state tuition and financial aid. This bill will help more eligible undocumented students apply for and receive aid to support their education.”

Lastly, the author states that, “AB 1540 was introduced in response to barriers faced by undocumented students, who are underrepresented in higher education. AB 1540 will remove barriers in the financial aid process and eliminate financial constraints for students, encouraging more students to attend and complete higher education.”

*Undocumented Student Affordability Work Group.* In 2022, CSAC convened an Undocumented Student Affordability Work Group comprised of student, campus, and administrative representative from all segments of higher education, immigrant right leaders, and higher education advocates to identify administrative and policy opportunities to improve undocumented students’ experience with the CADAA and receipt of financial aid. Work group members expressed the need to raise awareness and streamline the AB 540 affidavit process. It was found that the AB 540 affidavit process serves as a leading barrier to students’ ability to access financial aid opportunities.

Several students in the focus groups expressed frustration over a lack of accurate and timely information about the AB 540 status requirement and process. Some students even reported that they were being charged out-of-state tuition because they were never notified about the AB 540 affidavit requirement. According to the work group, because the AB 540 process is currently administered at a campus level, individual student notification and follow-up varies campus by campus; in fact, in some cases, the follow-up is non-existent.

The CSAC, based on findings from the work group, released a report in March of 2023, *Renewing the Dream: Improving Financial Aid & College Affordability for California’s Undocumented Students*. The report documents many financial aid and college affordability challenges for undocumented students. Further, in order to improve current situations faced by undocumented students, the report provides several administrative and policy recommendations.

This measure aligns with a policy recommendation in the report.

*Arguments in support.* According to the CSAC, sponsors of this measure, “many students that complete an affidavit for purposes of receiving a Promise Grant to cover community college

tuition and fees do not realize that they may submit a CA Dream Act Application to receive additional aid to help with non-tuition expenses. This disjointed approach to financial aid applications and AB 540 affidavits creates confusion and administrative barriers, resulting in students receiving less financial aid.”

Further, CSAC contends that, “AB 1540 emerged as a direct recommendation from the work group convened by the Commission to streamline the process for students and campus administration by embedding the affidavit within the CA Dream Act Application. By removing unnecessary administrative barriers, AB 1540 will help more students receive their financial aid awards and continue to pursue a college degree.”

**REGISTERED SUPPORT / OPPOSITION:****Support**

Alliance for A Better Community  
California Community Colleges Chancellor's Office  
California Student Aid Commission (Sponsor)  
California Undocumented Higher Education Coalition  
Coalition for Humane Immigrant Rights (CHIRLA)  
Faculty Association of California Community Colleges  
GENup  
Immigrants Rising  
NextgGen California  
Public Advocates, Inc.  
San Jose-Evergreen Community College District  
Southern California College Attainment Network  
Student Senate for California Community Colleges  
The Education Trust - West  
The Institute for College Access & Success  
uAspire  
University of California Student Association

**Opposition**

None on file.

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