

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 789 (Berman) – As Introduced February 13, 2023

**SUBJECT:** Student financial aid: Cal Grants: satisfactory academic progress.

**SUMMARY:** Requires, commencing by the start of the 2024-25 academic year, as part of the criteria to be a qualifying institution under the Cal Grant Program, an institution of higher education (IHE) to comply with various requirements regarding “satisfactory academic progress” (SAP) standards used to determine if a student qualifies for a Cal Grant and to develop and implement policies defining SAP in a manner that is consistent with the federal standards. Specifically, **this bill:**

- 1) States the following Legislative findings and declarations:
  - a) California has made substantial gains in ensuring low-income students receive financial aid at the onset of their academic careers through the expansion of the Cal Grant and California College Promise Grant programs;
  - b) In order to maintain a Cal Grant or federal financial aid, students must meet certain satisfactory academic progress (SAP) standards, governed by Section 1091 of Title 20 of the United States Code and Section 668.34 of Title 34 of the Code of Federal Regulations (CFR);
  - c) A report released in July 2021, titled “The Overlooked Obstacle – How Satisfactory Academic Progress Policies Impede Student Success and Equity” (“The Overlooked Obstacle”), found that 24% of first-year, California Community College students receiving a federal Pell Grant did not meet SAP standards during their first two consecutive academic terms. Black and Native American students were twice as likely as white and Asian students to not meet those standards. Students not meeting SAP standards was also found to be a significant issue at four-year universities;
  - d) A 2021 study comparing the characteristics of students who did not meet SAP standards to those who did meet those standards found no difference in the students’ motivation to attend and succeed in college. However, the students who did not meet those standards had significantly more life responsibilities, such as childcare and employment demands, and fewer resources, including access to food and housing, flexible work schedules, and reliable transportation;
  - e) Students who are deemed as not meeting their institution’s SAP standards during any two consecutive academic terms or one year of enrollment must have their Cal Grant and federal financial aid terminated unless they successfully appeal that determination;
  - f) Current federal regulations allow students to appeal the loss of financial aid due to special circumstances as defined by each individual postsecondary educational institution. Some postsecondary educational institutions that participate in state-funded financial aid programs do not take full advantage of federal flexibility related to grounds for appeal, unnecessarily limiting students’ ability to maintain financial aid; and,

- g) “The Overlooked Obstacle” further revealed that 87% of the California Community College students who did not make SAP standards during their first two consecutive academic terms either disenrolled or lost their financial aid.
- 2) Requires the IHE, by the start of the 2024-25 academic year, to develop and implement policies defining SAP in a manner that is consistent with the federal standards, as specified. The IHE must comply with all of the following:
- a) Set the standards for grade point average and pace of completion at the minimum federal standards, as specified;
  - b) Provide information to students about the institution’s SAP standards and financial aid appeals process during new student orientation, and include student-friendly language on the institution’s internet website, course syllabi, and financial aid award letters regarding the standards and appeals process;
  - c) Notify a student when the student has not achieved the SAP standards following every term of enrollment, regardless of the frequency at which “satisfactory academic progress” is formally evaluated;
  - d) Evaluate adherence to grade point average and pace of completion standards based only on cumulative measures and not on individual term measures;
  - e) Exclude remedial coursework from maximum timeframe calculations;
  - f) Allow a student who fulfills the terms and conditions of the student’s academic plan to remain on “financial aid probation” as specified, including continuing to receive financial aid for any term for which the student fulfills the terms and conditions of the student’s academic plan;
  - g) Allow a student who changes majors to exclude credits and grades that do not count toward the student’s new major in the SAP determination;
  - h) In the case of a SAP determination for a transfer student, when calculating maximum timeframe, as specified, only include those credits from other institutions that count towards the student’s current program of study;
  - i) Accept both electronic and hard copy financial aid appeals for any student who is ineligible to receive financial aid due to the determination that the student did not meet SAP, as defined by the institution where the student is enrolled, subject to all of the following:
    - i) A student who loses financial aid eligibility may appeal the determination during any subsequent term following loss of financial aid eligibility. The institution shall not limit the number of appeals that may be submitted by a student or impose deadlines for submitting an appeal that are earlier than three weeks before the end of each term. An appeal decision shall be finalized and communicated to the student by the end of the term in which the appeal was received;

- ii) A student who previously disenrolled while being ineligible to receive financial aid may appeal the loss of financial aid upon reenrollment, and the timing for consideration of the appeal shall allow the student, if the student meets the criteria for financial aid reinstatement, to qualify for reinstatement upon the first term of reenrollment;
  - iii) The institution shall provide a student who is ineligible to receive financial aid with written notice of the financial aid appeals process; and,
  - iv) In reviewing a student's appeal, the institution shall consider a broad range of special circumstances, including, but not limited to, any of the following:
    - (1) Death of a relative or other significant person;
    - (2) Injury or illness, including, but not limited to, behavioral health conditions, of the student or a relative or other significant person;
    - (3) Pregnancy or birth of a child;
    - (4) Homelessness;
    - (5) Loss of childcare.
    - (6) Loss or change in employment;
    - (7) Loss of access to personal or public transportation;
    - (8) Being a victim of a serious crime, including, but not limited to, domestic abuse, even if the crime was not reported or did not result in criminal prosecution or civil liability; and,
    - (9) Natural disaster.
  - v) The institution will review a student's appeal and notify the student of the appeal decision within 30 days of submission of a complete appeal. The institution shall not disenroll a student for nonpayment of tuition and fees while the student's appeal is pending;
  - vi) The institution will offer a second review process for an appeal that is denied; and,
  - vii) The institution will waive any requirement for third-party written documentation of the special circumstances forming the basis of an appeal if that documentation cannot be reasonably obtained by the student and the student signs a statement attesting to the veracity of the special circumstances presented as the grounds for appeal.
- 3) Stipulates that, by January 15, 2026, and each January 15 thereafter, the CCC Chancellor's Office (CCCCO), California State University (CSU) Office of the Chancellor, and, as a condition of participation in the Cal Grant Program, the University of California (UC) Office of the President (UCOP), must annually report to the Legislature all of the following

information, for the preceding award year, disaggregated by race, ethnicity, gender, and status as a first-generation college student, transfer student, Federal Work-Study Program participant, and current or former foster youth:

- a) The number of students who became ineligible to receive financial aid due to the determination that they did not meet SAP;
  - b) The number of students who submitted an appeal to have financial aid reinstated;
  - c) The number of financial aid appeals that were denied;
  - d) The number of financial aid appeals that were approved;
  - e) A summary of the reasons financial aid appeals were denied; and,
  - f) The number of students on “financial aid probation” as specified.
- 4) On or before January 31, 2025, the office of the CCCCO, CSU Office of the Chancellor and, as a condition of participation in the Cal Grant Program, the UCOP shall report to the Legislature, an update on the status of implementation this measure.
- 5) Defines “SAP” as the criteria required by applicable federal standards, as specified.

**EXISTING LAW:**

*Federal law.*

- 1) Stipulates that an IHE must establish a reasonable SAP policy for determining whether an otherwise eligible student is making SAP in their educational program and may receive assistance under the Title IV, Higher Education Act (HEA) programs [these are the federal financial aid programs]. The IHE policies are deemed to be reasonable if, in part:
  - a) The policy is at least as strict as the policy the IHE applies to a student who is not receiving assistance under the Title IV, HEA programs;
  - b) The policy provides for consistent application of standards to all students within categories of students, e.g., full-time, part-time, undergraduate, and graduate students, and educational programs established by the IHE;
  - c) The policy provides that a student's academic progress is evaluated:
    - i) At the end of each payment period if the educational program is either one academic year in length or shorter than an academic year; or,
    - ii) For all other educational programs, at the end of each payment period or at least annually to correspond with the end of a payment period;
  - d) The policy specifies the grade point average (GPA) that a student must achieve at each evaluation, or if a GPA is not an appropriate qualitative measure, a comparable assessment measured against a norm; if a student is enrolled in an educational program of

more than two academic years, the policy specifies that at the end of the second academic year, the student must have a GPA of at least a “C” or its equivalent, or have academic standing consistent with the institution's requirements for graduation;

- e) The policy describes how a student's GPA and pace of completion are affected by course incompletes, withdrawals, or repetitions, or transfers of credit from other institutions. Credit hours from another institution that are accepted toward the student's educational program must count as both attempted and completed hours;
  - f) If the institution places students on financial aid warning, or on financial aid probation, as, the policy describes these statuses and that:
    - i) A student on financial aid warning may continue to receive assistance under the Title IV, HEA programs for one payment period despite a determination that the student is not making satisfactory academic progress. Financial aid warning status may be assigned without an appeal or other action by the student; and,
    - ii) A student on financial aid probation may receive Title IV, HEA program funds for one payment period. While a student is on financial aid probation, the institution may require the student to fulfill specific terms and conditions such as taking a reduced course load or enrolling in specific courses. At the end of one payment period on financial aid probation, the student must meet the institution's satisfactory academic progress standards or meet the requirements of the academic plan developed by the institution and the student to qualify for further Title IV, HEA program funds;
  - g) If the institution permits a student to appeal a determination by the institution that he or she is not making satisfactory academic progress, the policy describes:
    - i) How the student may reestablish his or her eligibility to receive assistance under the Title IV, HEA programs;
    - ii) The basis on which a student may file an appeal: The death of a relative, an injury or illness of the student, or other special circumstances; and,
    - iii) Information the student must submit regarding why the student failed to make satisfactory academic progress, and what has changed in the student's situation that will allow the student to demonstrate satisfactory academic progress at the next evaluation.
- 2) Stipulates that the following definitions apply to the terms of SAP:
- a) “Appeal” means a process by which a student who is not meeting the IHE’s SAP standards petitions the institution for reconsideration of the student's eligibility for Title IV, HEA program assistance;
  - b) “Financial aid probation” means a status assigned by an institution to a student who fails to make SAP and who has appealed and has had eligibility for aid reinstated;
  - c) “Financial aid warning” means a status assigned to a student who fails to make SAP at an institution that evaluates academic progress at the end of each payment period;

- d) “Maximum timeframe means:”
- i) For an undergraduate program measured in credit hours, a period that is no longer than 150 percent of the published length of the educational program, as measured in credit hours, or expressed in calendar time;
  - ii) For an undergraduate program measured in clock hours, a period that is no longer than 150 percent of the published length of the educational program, as measured by the cumulative number of clock hours the student is required to complete and expressed in calendar time; and,
  - iii) For a graduate program, a period defined by the institution that is based on the length of the educational program
- 3) Stipulates that a student on financial aid probation for a payment period may not receive Title IV, HEA program funds for the subsequent payment period unless the student makes SAP or the IHE determines that the student met the requirements specified by the IHE in the academic plan for the student (34 CFR 668.34).

*State law.* Establishes the Cal Grant program, administered by the California Student Aid Commission, to provide grants to financially needy students to attend a college or university. The Cal Grant programs include both the entitlement and the competitive Cal Grant awards. The programs consists of the Cal Grant A, Cal Grant B, and Cal Grant C programs; eligibility, in part, is based upon financial need, grade point average (GPA), California residency, and maintaining SAP, as specified. Defines SAP as the criteria required by applicable federal standards. Maximum Cal Grant award amounts for CSU and UC are established in the annual Budget Act and have traditionally covered all systemwide tuition and fees. Supplemental Cal Grant awards programs are available to students with dependent child(ren) and former and current foster youth attending CSU, UC, or a CCC to assist with non-tuition costs such as living expenses (EC Sections 69430 – 69433 and Sections 69465 - 69470).

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Purpose of this measure.* According to the author, “for college and university students, access to financial aid is key to improving academic outcomes as well as addressing racial inequities and basic needs insecurity.”

The author contends that, “while much attention has been paid to the need to expand financial aid access at the beginning of a student’s academic career, very little attention is given to whether students are subsequently able to maintain financial aid once enrolled. In order to maintain a Cal Grant or federal financial aid, students must meet certain satisfactory academic progress (SAP) standards, governed by federal regulations, such as a minimum Grade Point Average, a maximum timeframe for completion, and a minimum course completion rate.”

Further, the author states, “despite the critical role played by financial aid in college achievement, data shows that sizeable numbers of underrepresented students lose access to financial aid due to SAP standards and it is these already marginalized students who are unlikely to return and achieve their higher education dreams.”

Pursuant to the author, “AB 789 would remove barriers that limit students’ ability to keep their financial aid. It would do this by establishing a common set of standards for SAP, including the appeals process, to ensure that all California students, regardless of the postsecondary educational institution they attend, are provided with the flexibility already allowed under federal law.”

*The SAP.* Currently, the U.S. Department of Education requires academic institutions receiving federal financial aid funds to establish a “reasonable SAP policy,” and many state programs, including the Cal Grant, are linked to these same standards. [Students who do not meet SAP standards for two consecutive terms or one academic year are disqualified from receiving financial aid unless they successfully appeal to have aid reinstated.] Yet, many institutions of higher education in California have SAP policies that impose stricter standards than federally required, and unclear appeal processes that result in inconsistent treatment of students. This negatively impacts students’ ability to both meet their institutions’ SAP policies and successfully appeal to maintain financial aid.

The John Burton Advocates for Youth (JBAY) released a report in July 2021, titled “The Overlooked Obstacle – How Satisfactory Academic Progress Policies Impede Student Success and Equity,” found that Black and Native American students were twice as likely as white and Asian students to not meet SAP standards. As a result, the data shows that sizeable numbers of underrepresented students lose access to financial aid due to SAP standards and it is these already underrepresented students who are unlikely to return and achieve their higher education dreams. The report also revealed that 87 percent of the California community college students who did not make SAP standards during their first two consecutive academic terms either disenrolled or lost their financial aid.

Further, a 2022 report from the RP Group, *The African American Transfer Tipping Point: Identifying the Factors That Impact Transfer among African American/Black Community College Students*, found that for African American/Black community college students, being on academic probation was associated with a 70 percent reduction in the likelihood of graduation.<sup>1</sup>

The author states that, “given the enormous impact of financial aid receipt on college enrollment and retention, the changes in AB 789 are important steps in narrowing graduation gaps and inequities among low-income students and students of color.”

*Recent legislative efforts to reform SAP.* During the 116<sup>th</sup> Congress (2019-2020), Senator Cory Booker introduced S. 5033, the Satisfactory Academic Progress Reset and Reform Act. The Act, in part, seeks to revise SAP requirements for federal student-aid programs, including by allowing a student who has not been enrolled in an IHE for two years to regain eligibility for federal student aid. The Act cited Congressional findings, including, but not limited to the following:

- 1) The SAP requirements for Federal student aid programs have become increasingly strict and inflexible for students over the last 40 years;

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<sup>1</sup> RP Group, *The African American Transfer Tipping Point: Identifying the Factors That Impact Transfer among African American/Black Community College Students*, 2022.  
[https://rpgroup.org/Portals/0/Documents/Projects/African\\_American\\_Transfer\\_Tipping\\_Point-\(AATTP\)-Study/AATTP\\_Brief1\\_Fall2022.pdf](https://rpgroup.org/Portals/0/Documents/Projects/African_American_Transfer_Tipping_Point-(AATTP)-Study/AATTP_Brief1_Fall2022.pdf)

- 2) The increase in SAP requirements has made need-based Federal Pell Grant resemble a performance-based scholarship, despite the disproportionately negative impact on students and families who are low-income;
- 3) Approximately 40% of first-year Federal Pell Grant recipients risk losing Federal student aid due to not meeting the credit completion component of SAP requirements;
- 4) Many IHEs conduct an SAP status check every payment period, allowing students to benefit from a one-term “warning status” before losing Federal student aid or filing an appeal; however, students at IHEs that only evaluate SAP status once per year are at risk of losing their Federal student aid immediately upon learning of their status; and,
- 5) Current SAP policy disproportionately harms Black, Latinx, and Native American students. In 2015 through 2016, 57% of Black students, 47% of Latinx students, and 51% of Native American students relied on Federal Pell Grants to pay for college, while for that same year, 39% of all undergraduate students received a Federal Pell Grant.

The Act was referred to the Senate Committee on Health, Education, Labor, and Pensions; however, the Act was not heard before the 116<sup>th</sup> Congressional Session adjourned.

*Concerns from IHEs.* While the CSU, UC, and the Association of Independent California Colleges and Universities (AICCU) do not have a formal position on this measure, the segments have expressed several policy concerns, including, but not limited to, the following:

- 1) Providing information to students about the IHE’s SAP standards and financial appeal process during new student orientation is overwhelming. Further, it will not apply to most students and could send a message that the IHE expects the students to fail academically.
- 2) Remove the current language in the bill on not counting non-major courses or remedial coursework toward SAP GPA because it appears to conflict with Federal regulations.
- 3) Institute a once-per-year minimum for SAP appeals at each institution (rather than state ‘may not limit’).
- 4) Alert students of appeal decision within 45 days rather than 30 days.
- 5) Removal of the reporting requirements because some of the segments do not currently collect the data as required to be collected in this measure.

*Committee comments.* As currently drafted, this measure requires IHEs to exclude remedial coursework from maximum timeframe calculations. However, not all IHEs offer remedial coursework.

Further, as currently drafted, this measure permits a student who loses financial aid eligibility to be able to appeal the determination during any subsequent term following the loss of financial aid eligibility. The measure stipulates that IHEs cannot limit the number of appeals that may be submitted by a student or impose deadlines for submitting an appeal that are earlier than three weeks before the end of term. However, if a student files an appeal close to the end of the term there may not be enough time for the approval process to occur.



Additionally, this measure will allow a student who previously disenrolled while being ineligible to receive financial aid to appeal the loss of financial aid upon reenrollment, and the timing for consideration of the appeal shall allow the student, if the student meets the criteria for financial aid reinstatement, to qualify for reinstatement upon the first term of reenrollment. IHE's are not able to reinstate financial aid because a student disenrolled during SAP failure. The student was not eligible at the time of disenrollment if the appeal was not approved.

Further, the measure also requires IHEs to provide a student who is ineligible to receive financial aid with written notice of the financial aid appeals process. However, a student may not know the best way to file the appeal or that, pursuant to this measure, the student is allowed to request a second review of the appeal.

Moreover, this measure requires IHEs to consider a broad range of special circumstances. However, the IHEs may have other circumstances deemed appropriate for approval of the SAP appeal.

Lastly, the measure requires the IHEs to provide a second review process for an appeal that is denied. However, the measure is currently unclear as to who will conduct the second review.

*With aforementioned in mind, the Committee recommends, and the author as agreed to accept, all of the following amendments:*

(4)(E) Exclude remedial coursework from maximum timeframe calculations **if the institution offers remedial coursework.**

(4)(I)(i) A student who loses financial aid eligibility may appeal the determination during any subsequent term following loss of financial aid eligibility. The institution shall not limit the number of appeals that may be submitted by a student **throughout the duration of their enrollment except the institution may limit the number of appeals per term. If the institution chooses to limit the number of appeals per term, the second review process for an appeal that is denied still applies pursuant to subparagraph (vi). The institution shall not** impose deadlines for submitting an appeal that are earlier than three weeks before the end of each term. An appeal decision shall be finalized and communicated to the student by the end of the term in which the appeal was received.

(ii) A student who previously disenrolled while being ineligible to receive financial aid may appeal the loss of financial aid upon reenrollment, and the timing for consideration of the appeal shall allow the student, if the student meets the criteria for financial aid reinstatement, to qualify for reinstatement upon the first term of reenrollment. **Nothing in this subparagraph shall be interpreted to require institutions to provide retroactive financial aid for a term preceding the term in which a student reenrolls.**

(iii) The institution shall provide a student who is ineligible to receive financial aid with written notice of the financial aid appeals process, **including the process for a student to file an appeal, information about the second review process for an appeal that is denied as described in subparagraph (vi), and how a student may request a second review.**

(iv) In reviewing a student's appeal, the institution shall consider a broad range of special circumstances, including, but not limited to, any of the following **and may consider any additional special circumstances that the institution deems appropriate:**

(vi) The institution shall ~~offer~~ **provide** a second review process for an appeal that is denied **if requested by a student. The second review shall be conducted by a reviewer who did not participate in the first review.**

*Arguments in support.* According to the JBAY (sponsor) and uAspire (Co-Sponsor) of this measure, “The U.S. Department of Education requires academic institutions receiving federal financial aid funds to establish a ‘reasonable satisfactory academic progress (SAP) policy,’ and many state programs, including the Cal Grant, are linked to these same standards. Students who do not meet SAP standards for two consecutive terms or one academic year are disqualified from receiving financial aid unless they successfully appeal to have aid reinstated. Yet, many institutions of higher education in California have SAP policies that impose stricter standards than federally required and unclear appeal processes that result in inconsistent treatment of students. This negatively impacts students’ ability to both meet their institutions’ SAP policies and successfully appeal to maintain financial aid.”

Further, “AB 789 will also create a pathway for students who have disenrolled while on SAP disqualification to regain aid upon re-enrollment. Given the enormous impact of financial aid receipt on college enrollment and retention, these changes are important steps in narrowing graduation gaps among low-income students and students of color as well as supporting California’s goal of increasing enrollment numbers across the state’s postsecondary institutions.”

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

John Burton Advocates for Youth (Sponsor)  
NextGen California (Co-Sponsor)  
uAspire (Co-Sponsor)  
3rd Street Youth Center & Clinic  
A Better Way, Inc. - Permanency Program  
American Association of University Women - California  
Bakersfield College - EOPS/NextUp  
Barstow Community College  
Beyond Emancipation  
Butte College Inspiring Scholars  
CA African American Chamber of Commerce  
California State Student Association  
California State University, Dominguez Hills - Toro Guardian Scholars Program  
Campaign for College Opportunity  
Center for Public Interest Law/children's Advocacy Institute/university of San Diego  
Children Now - Child Welfare  
Children's Legal Services of San Diego  
Citrus College  
Creative Alternatives - Transitional Housing Program  
Cuesta College - Financial Aid  
Dolphin Guardian Scholars Program - CSU Channel Island  
EA Family Services  
Empowering Pacific Islander Communities (EPIC)  
Empowering Pacific Islander Communities (EPIC) Fiscally Sponsored by Community Partners

Faculty Association of California Community Colleges  
First Place for Youth  
Foster Care Counts  
GENup  
Glendale Community College District  
Haven of Hope  
Immigrants Rising  
Jovenes, Inc.  
Kid City Hope Place  
Mary Graham Children's Foundation  
Merced County - Children's Services Branch  
Mt. San Antonio College  
National Association of Social Workers, California Chapter  
Norco College - Special Funded Programs  
North Orange Community College District  
Orange County Business Council  
Pivotal  
Power to Soar  
Prevail  
Public Advocates, Inc.  
Reedley College - EOPS  
Rio Hondo College  
San Benito County - Health & Human Services  
San Jose-Evergreen Community College District  
Shasta College - Inspiring & Fostering Independence (SCI\*FI)  
Southern California College Attainment Network  
Student Senate for California Community Colleges  
Sycamores  
The Education Trust - West  
The Institute for College Access & Success  
TLC Child & Family Services - Transition Age Youth Housing  
Together We Rise DbA Foster Love  
UNITE-LA, Inc.  
United Friends of The Children  
University of California Student Association  
Voices - Solano  
Waking the Village  
Walden Family Services  
Woodland Community College Foster & Kinship Care Education  
Young Invincibles  
Youth Law Center  
Youth Leadership Institute

**Opposition**

None on file.

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