
AB 540

Advisor Training
May 5, 2008

AB 540

How unprotected immigrant students
can achieve a higher education

The goals for today:

- Provide information on AB 540
- Provide tools to advocate on behalf of AB 540 students

Key Questions

- What is AB 540?
- What is the history of AB 540?
- How can a student qualify for AB 540?
- Why is the affidavit required?
- Will US Immigration know where to find a student after enrolling under AB 540?

What is AB 540?

- Provides support for some unprotected immigrant students
 - Came to US at an early age
 - Raised in US
 - Often do not find out until high school graduation that they are undocumented
- Some unprotected Immigrant student are not covered by AB 540 because of the requirements

What is AB 540?

- ***Any*** student, except a person in non-immigrant status, who meets the specific requirements shall be exempt from paying nonresident tuition at all public colleges and universities in California.

What does nonimmigrant mean?

- Current nonimmigrant visa holders are not eligible for this tuition exemption [Tourist (F visa) or student (B visa)]
- Some expired visa holders who are “out of status”, may be eligible for AB 540 if they meet the requirements
- Students categorized as AB 540 will not be classified as California residents

What is AB 540?

- October 12, 2001-Governor signs bill allowing undocumented students to pay in-state tuition fees, when meeting the given requirements
- January 2002 -law takes effect for the California Community Colleges and California State University systems as Education Code § 68130.5
- January 24, 2002- UC Board of Regents vote to adopt AB 540

What are the requirements?

- Attended a high school in California for three or more years
- Graduated from a CA high school or attained the equivalent of a high school diploma, (Passed the GED or CA High School Proficiency Exam)
- Register or be currently enrolled in one of the three state institutions of higher learning
- File an affidavit with the college or university stating that he or she has applied to legalize his or her legal status or will do so as soon as he or she is eligible to do so
- All information provided by student will be kept confidential by the college or university

What about the AB 540 Affidavit?

- The affidavit is required by the college where the student will be attending
- The affidavit states that the student will adjust their status, as soon as they are eligible to do so
- Students are not required to submit a new affidavit when there is continuous enrollment
- The information on the affidavit is kept confidential, as required by law. Immigration has no access to student information

California Nonresident Tuition Exemption Request

- <http://www.csulb.edu/depts/enrollment/forms/>

How Else are Unprotected Students Impacted By Their Status?

- Not eligible for state or federal programs
- No driver license
- No SSN, therefore limited in qualifying for any thing that requires this form of identification
- No work authorization
- No paid internships, fellowships
- Not eligible for some careers
- Can't travel when ID is required

How Else are Unprotected Students Impacted By Their Status?

- Can receive private grants and scholarships
- Can pay taxes using ITIN rather than SSN
- Can use ITIN, Matricula, Student ID on campus
- Are eligible for all other campus services

What is the History of AB 540?

- **1982: Plyler vs. Doe**
 - U.S. Supreme Court rules that K-12 students regardless of immigration status have the right to a public school education
- **1986: Leticia A. vs. the UC Regents and CSU Board of Trustees:**
 - Required that UC/CSU cease the discriminatory practice of requiring proof of US citizenship/PR when defining state residency for tuition purposes
 - Between 1989-1991 in UC/1986-1995 in CSU, students who met state residency requirements were able to receive state financial aid and were charged resident tuition

What is the History of AB 540?

- **1991: Bradford vs. the UC Regents**
 - Bradford claims that the University policy resulting from the Leticia A. case is in direct violation with federal responsibility to make laws regulating immigration
- **1996: Immigration Reform and Immigrant Responsibility Act**
 - Prohibits immigrant students from assessing any postsecondary education benefit unless a U.S. citizen or national is eligible for the same benefit
 - Any state that provided in-state tuition to undocumented immigrant must also provide in-state tuition to out-of-state residents

Legal Challenges to In-State Tuition

- Kansas – 2005 (Day v. Seleclius)
 - Case thrown out of court, no standing, plaintiffs could not show they were “injured”
- CA 2006 (Martinez v. Regents)
 - Court dismissed case and found AB 540 consistent with federal law

Are AB 540 Students Eligible for Federal and State Financial Aid ?

- Financial needs are paramount
 - Private funding only aid available, yet many require USA citizenship or legal residency
 - Challenge requirement
- Students should speak with a counselor about scholarships and private grants

Are AB 540 Students Eligible for Federal and State Financial Aid ?

- If a student filed an application with BCIS, the student may already be eligible for resident fee status and also to receive financial aid. Students should speak to their attorney
- Utilizing any public benefits while undocumented can be deemed grounds for automatic deportation the day the individual is able to fix his Immigration status (i.e. making up a SSN to access grants)

Legislative Horizon

- California Proposed Legislation
 - SB 1301 (Cedillo) **California Dream Act**
 - Provide state administered financial aid
 - Allow graduate from CA secondary school to qualify for in-state tuition fees
- Only Texas, Oklahoma, New Mexico provide financial aid to unprotected students

Legislative Horizon

Federal DREAM Act

- Development, Relief, and Education for Alien Minors Act
 - Bipartisan in Senate and House
 - Provide high school graduates who were brought to US as children and have lived here for at least 5 years to apply for temporary legal status

Legislative Horizon

Federal DREAM Act

- Provides protection from deportation for children 12 years of age and older that are enrolled in primary and secondary school
- Conditional resident status to students that have graduated from high school or obtained the equivalent, are enrolled in two or four-year institutions of higher education or have enlisted in the armed forces
- Allows those granted conditional resident status to become permanent residents if they have successfully completed 2 years of college or 2 years of military service

Legislative Horizon

- **Qualifications under the Federal DREAM Act**
 - ❑ Must have entered the USA before age 16
 - ❑ Have resided in the USA continuously for at least five years
 - ❑ Demonstrate good moral character and have no criminal record
 - ❑ Be admitted to a 2 or 4-year higher educational institution and/or have earned a high school diploma or GED at the time of application for conditional status

Legislative Horizon

Federal DREAM Act

- Students would not be eligible for Pell Grants
- Students would be eligible for
 - Subsidized student loans
 - Federal Work Study
 - State financial aid programs

Results of AB 540

- UC – >1, 700 students, approximately 600 undocumented
- CSU – >3,000 students, approximately 1,000 undocumented
- CCC – Number unknown
- CSULB – Approximately 200 currently enrolled
- Estimate that >5,000 CA undocumented students benefited since 2001

On Campus Assistance

- Advocacy Groups
 - Faculty and Staff
 - Student Group
- Resource Guide

- AB 540 On-Line Resource Guide

What have we learned?

- What is AB 540?
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- Will immigration know where to find a student after enrolling under AB 540?

Thank you!
