
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: SB 296 **Hearing Date:** April 3, 2019
Author: Allen
Version: February 14, 2019
Urgency: No **Fiscal:** Yes
Consultant: Olgalilia Ramirez

Subject: Student financial aid: immigrants seeking asylum.

SUMMARY

This bill extends eligibility for the Cal Grant program to students who are noncitizens that have filed the specified application for asylum to the same extent as citizens and other eligible noncitizens, as provided under current law.

BACKGROUND

Existing law:

Financial aid and Fees

- 1) Authorizes 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 program consists of the Cal Grant A, Cal Grant B, and Cal Grant C programs and eligibility is based upon financial need, GPA, California residency and other criteria. (Education Code § 69430 - 69433)
- 2) Establishes eligibility criteria for the Cal Grant program. Among other things, to be eligible to receive a Cal Grant award a student is required to be a citizen of the United States, or an eligible noncitizen of which include those granted asylum, as defined for purposes of financial aid programs under Title IV of the federal Higher Education Act of 1965 (20 U.S.C. Secs. 1070 et seq). In addition, the individual, at the time of high school graduation or its equivalent, is required to be a resident of California. (EC § 69433.9)
- 3) Establishes the requirements for determining residency for purposes of paying the lower-cost "in-state" student fees at the California Community Colleges, the California State University and the University of California, which generally includes a demonstration that the student has resided in California for more than one year immediately preceding the residence determination date and undertaken other specified actions such as registering to vote or registering one's car in California. (EC § 68017)

AB 540

- 4) Exempts specified California nonresidents from paying nonresident tuition at University of California, California State University, and California Community

Colleges, also known as the AB 540 nonresident tuition waiver, if they meet all of the following: (Education Code § 68130.5.)

- a) Attended or attained credits at a California high school, an adult school, a CCC campus, or a combination of these entities, for the equivalent of three or more years; or completed three or more years of full-time high school coursework, and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of such elementary and secondary schools.
 - b) Graduated from a California high school or attained an equivalent degree; attained a CCC associate degree; or fulfilled the minimum transfer requirements from a CCC campus to a UC or CSU campus.
 - c) Registered or attended an accredited California higher education institution beginning after fall of the 2001-02 academic year; and,
 - d) If an undocumented student has filed an affidavit stating that the student has filed an application to legalize his or her immigration status or will file such an application as soon as he or she is eligible to do so.
- 5) Authorizes, beginning January 1, 2013, AB 540 students to be eligible to apply for, and participate in, any student financial aid program administered by the State of California to the full extent permitted by federal law. (EC § 66021.6.)

Other immigration statuses.

- 1) Exempts certain individuals from paying nonresident tuition at the CCCs including students with Special Immigrant Visas and refugees admitted to the United States under a specified federal statute. (EC § 68075.5(a), 68130.5 and 68122.)
- 6) 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. (EC § 68122.)

ANALYSIS

This bill:

- 1) Extends eligibility for the Cal Grant program to noncitizens who have filed the specified application for asylum to the same extent as citizens and eligible noncitizens would be, if the student meets all of the following conditions:
 - a) Have a valid employment authorization document and social security number.
 - b) Sign an affidavit stating that the student will inform the institution of

attendance any change in their immigration status within 10 calendar days of the date the student is informed of that change.

- c) Meet other applicable eligibility criteria for Cal Grant program.
- 2) States various legislative findings and declarations that include all of the following:
 - a) Despite California's commitment to financial aid and college affordability, many immigrants are not eligible for the aid that they need to fund their expenses in college. Among these immigrants are asylum seekers who have filed for asylum and are awaiting an interview date.
 - b) Many pending asylum seekers in California may be admitted to a college or a university but, are not eligible for federal funding until they are granted asylum status. As a result, these students, who have fled persecution, are unable to attend college due to a lack of financial resources.
 - 3) Declares the Legislature's intent to enact legislation to expand eligibility for Cal Grant Program awards to pending-status immigrants, such as pending asylees who are registered with the Department of Homeland Security.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Due to the growing numbers of applications filed through the US Citizenship and Immigration Services (USCIS) and the lack of asylum officers available to adjudicate cases in a timely manner, many individuals have been waiting for years before they receive a final decision on their case. Current data indicates that at least 70,000 affirmative cases are pending in California's asylum offices located in Los Angeles and San Francisco, and several others in immigration courts across the state.

Among these applicants are prospective and current college students wishing to attend a university in California, but who are unable to because of the significant costs. Because of their unique status as pending asylees, these students are not eligible for Cal Grant financial aid if they have been here in the state for less than three years.

Under current law, the Free Application for Federal Student Aid (FAFSA) is available for students such as U.S. citizens, Legal Permanent Residents, and those who have been already granted asylum in the United States. The Cal Grant is available to all these students and to noncitizens who have attended California's educational institutions for at least three years through AB 540, passed in 2001.

Asylum seekers who have had their asylum application pending for 6 months or more are eligible to obtain an employment authorization document and a social security number through which they can work in the country, file taxes, and participate in the economy.

However, because they and their family members often are only able to get low-paying jobs, the cost of education in California is well beyond their financial means.”

- 2) **Eligible noncitizens and postsecondary education benefits.** Under current law, certain non-U.S. citizens are eligible for postsecondary educational benefits including the Cal Grant and federal financial aid programs. Among the classes of persons who meet the noncitizen criteria include, persons granted asylum, lawful permanent residents, refugee and others. The group of students addressed in this bill are pending asylees who have applied and are awaiting to be granted asylum. This bill establishes that asylum seekers would receive access to the Cal Grant program to the same extent as citizens and other eligible noncitizens. An eligible noncitizen would be eligible to apply for Cal Grants only to the extent that they meet statutory California residency requirements (one-year), as is the requirement for the general population. Eligible noncitizens are required to meet all deadlines and rules for financial aid as is required of the general student population. These same standard/requirements would apply to pending asylum seekers.
- 3) **Could asylum seekers qualify for Cal Grant under AB540?** Under current law, asylum seekers could be eligible for the Cal Grant if they meet requirements established by AB 540 for nonresident students and apply for aid using the California Dream Act application. This pathway requires that a student attend or attain credits at a California high school or community college campus for the equivalent of three or more years. Under the proposed measure, asylum seekers, however, could be eligible for Cal Grant awards, to the same extent that the general student population would be. This bill essentially carves a new pathway for accessing Cal Grant in a manner that is less cumbersome especially with regard to meeting requirements for time spent in a California educational institution. The proposed change in eligibility for the Cal Grant program only applies to those with pending asylum status and not to other groups who fall under the AB 540 umbrella.
- 4) **What is asylum?** Asylum is a protection granted to foreign nationals already in the United States or at the border who are unable or unwilling to return to their home country, and cannot obtain protection in that country, due to past persecution or a well-founded fear of being persecuted in the future on account of race, religion, nationality, membership in a particular social group, or political opinion. A person granted asylum is protected from being returned to their home country and after one year, an asylee may apply for lawful permanent resident status and ultimately citizenship.
- 5) **Reporting changes in immigration status.** This bill requires that a student inform their institution of any change in their immigration status within 10 calendar days of the date the student is informed of that change. Given that award renewals are condition upon a student’s annually submission of FAFSA or Dream Act application it’s unclear whether notification is necessary for purposes of awarding financial aid. **Staff recommends** the bill be amended to delete provisions that require a student to sign an affidavit that commits to informing their institution of a change in their immigrations status as follows:

(3) A noncitizen who has filed an I-589 Application for Asylum and has a valid employment authorization document and social security number. ~~A student who qualifies under this paragraph shall sign an affidavit stating that the student will inform the institution attended by the student of any change in the student's immigration status within 10 calendar days of the date the student is informed of that change.~~

6) ***Related legislation.***

Several bills have been introduced in an effort to expand eligibility for the Cal Grant program to students who are currently ineligible. These include the following:

SB 461 (Roth, 2019) expands the total period of eligibility for Cal Grant A or Cal Grant B awards by establishing eligibility for an additional Summer Cal Grant award for purposes of timely completion of a baccalaureate degree program at a public postsecondary institution. SB 461 is scheduled to be heard by this committee on April 3, 2019.

SB 575 (Bradford, 2019) extends eligibility for the Cal Grant program to a student who is incarcerated. SB 575 is scheduled to be heard by this committee.

SUPPORT

American Academy Of Pediatrics, California
San Jose-Evergreen Community College District

OPPOSITION

None received

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