

2019 CACCRAO Conference

AB 540 Overview

Natalie Wagner, CCC Chancellor's Office

AGENDA

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- Related legislation
- Current AB 540 Exemption Eligibility Criteria
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What is AB 540?

Assembly Bill (AB) 540 was enacted in 2001 and added section 68130.5 to the Education Code. AB 540 granted an exemption from nonresident tuition for eligible nonresident students* who attended high school in California for three or more years, and received a high school diploma or equivalent.

* Those with a valid nonimmigrant status such as those present in the United States on a B visitor visa or an F visa are not eligible for this exemption.

AB 540 Related Legislation

The California Dream Act: AB 130 and 131 (2011)

The California Dream Act passed in 2011 and made AB 540 students eligible to apply for and receive financial aid. This change was effective January 1, 2012 for institutional financial aid and January 1, 2013 for state financial aid.

AB 540 Related Legislation

AB 1899 (Mitchell, 2012)

AB 1899, effective January 1, 2013, added section 68122 to the Education Code. This section expanded eligibility for AB 540 to include nonimmigrant alien students holding “T” or “U” Visas, treating these students in the same manner as refugees.

AB 540 Related Legislation

AB 2000 (Gomez, 2014)

AB 2000, effective January 1, 2015 amended Education Code section 68130.5 and expanded eligibility for AB 540 to include students who:

Demonstrate attainment of credits earned in California from a California high school equivalent to three or more years of full-time HS coursework AND a total of three or more years of attendance in California elementary/ secondary schools or a combination of those schools AND graduated from a California HS (or attained the equivalent).

AB 540 Related Legislation

SB 68 (Lara, 2017)

SB 68, effective January 1, 2018, amended Education Code section 68130.5 and significantly expanded eligibility criteria for AB 540. Two main changes:

1. **Attendance Requirement:** SB 68 amended the attendance requirement to allow attendance (or credits earned) at: California High Schools, California Adult Schools, California Community Colleges (limit: 2 years in CCC credit courses), or a combination of these, to count toward the three year requirement.
2. **Completion of a course of study:** Under SB 68 a student may satisfy the completion requirement with graduation from a California high school or the equivalent, OR attainment of an AA degree from a CCC OR fulfilment of the minimum requirements to transfer to a UC or CSU.

AB 540 Related Legislation

AB 3255 (2018, Post Secondary Omnibus Bill)

Amended Education Code 68130.5 (a)(1)(B):

(B) Three or more years of full-time high school ~~coursework~~ **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.

Current AB 540 Exemption Eligibility Criteria

Requirement 1: Attendance at California schools

Two Paths:

- ❖ Total attendance (or attainment of credits earned) in California equivalent to three or more years of full-time attendance at California high schools, California high schools established by the State Board of Education, California adult schools (established by a county office of education, a unified school district or high school district, or the Department of Corrections and Rehabilitation), campuses of the California Community Colleges, or a combination of these; or
- ❖ 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.

Current AB 540 Exemption Eligibility Criteria

Requirement 2: Completion of a course of study

This requirement may be met in any of the following ways:

- ❖ Graduation from a California high school or equivalent.
- ❖ Attainment of an associate degree from a California community college.
- ❖ Fulfillment of the minimum transfer requirements established for the University of California or the California State University for students transferring from a California community college.

(Ed. Code, § 68130.5, subd. (a)(2).)

Current AB 540 Exemption Eligibility Criteria

Requirement 3: Registration. Requires registration as an entering student at, or current enrollment at, an accredited institution of higher education in California.

Requirement 4: Affidavit of student without lawful immigration status. Students without lawful immigration status must file an affidavit with their college or university stating that the student has either filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so. (Note: All students seeking the AB 540 exemption must complete the affidavit.)

Commonly asked questions

Question: Can colleges accept partial Community College attendance in an academic year?

Answer: Yes. The accumulation of credit and/or non-credit courses in any academic year shall be calculated in reference to a year's equivalence, and not the amount of credit or non-credit earned per semester or per quarter.

Full-time Attendance Measures		
	1-Year Equivalent	3-Year Equivalent
High School	55 credits	165 credits
Adult School	420 class hours	1260 class hours
Community College (Credit)	24 credit units	May only use up to two years (48 credit units)
Community College (Noncredit)	420 class hours	1260 class hours



Commonly asked questions

Question: Does the attendance requirement have to be completed before the completion of a course of study requirement?

Example: Student who has 2 years at a California high school and graduated with a high school diploma. After graduating, she attended noncredit community college classes and completed 450 class hours.

Answer: No. There is no specific sequence outlined in the statute, as long as the student meets all applicable requirements, they would be eligible for the exemption.

Commonly asked questions

Question: Are students who are “out of status” or undocumented eligible for this exemption?

Answer: Yes. Students who previously held valid nonimmigrant visas but who are out-of-status, or those who are undocumented at the time of execution of the affidavit are eligible for the AB 540 exemption.

Commonly asked questions

Question: Does a student's visa have to be expired for the student to be considered "out of status"?

Answer: Not necessarily, if a student overstays his/her I-94 authorization date, the student is in violation of the terms of that visa and would be considered to be "out of status" even if the visa is not expired.

Commonly asked questions

Question: What if a student does not know how many credit hours from elementary, middle, and high school they completed?

Answer: In this case, the best approach would be to rely upon periods of attendance. For community college purposes, self-certification of attendance is sufficient. UC or CSU may require more.

Commonly asked questions

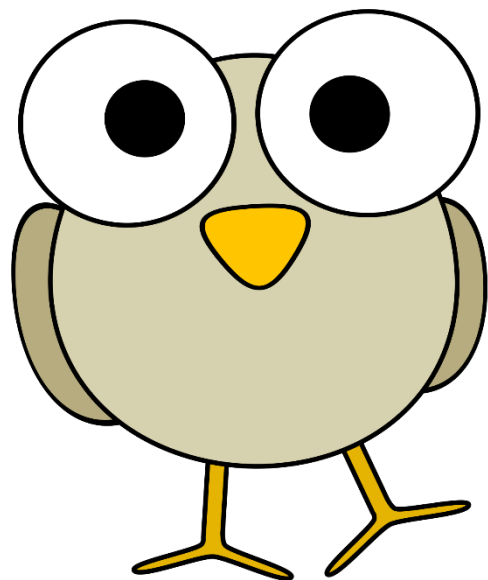
Question: Are students required to submit supporting documentation such as transcripts to show they meet the requirement for attendance at California schools?

Answer: The statute requires only that the student file the AB 540 affidavit. The Chancellor's Office does not require the college to collect supporting documentation beyond the completed affidavit (self-certification form). Colleges may accept self-certification on its own with the student's signature, or may require supporting documentation.

Available Resources from the Chancellor's Office

- ❖ [Legal Advisory 18-02](#): Recent Additions to Nonresident Tuition Exemptions (Supersedes Legal Advisory 07-01)
- ❖ AB 540 [Flyer](#)
- ❖ Nonresident Tuition Exemption Request Form ([AB 540 Affidavit](#))- Updated January 2018
- ❖ Supplemental [AB 540 Questions and Answers](#) on the Chancellor's Office Website

Questions



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Contact Information

Natalie Wagner
(916) 327-1554
nwagner@cccco.edu

Chancellor's Office