



Mexican American Legal Defense and Educational Fund
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AB 540
Frequently Asked Questions

Since January 1, 2002, California's AB 540 law allows undocumented immigrant students in pursuit of a higher education who meet specific requirements to be exempt from paying out-of-state tuition fees.

1. I am an undocumented student who attended high school in Oregon (or a state other than California) for two years and completed my junior and senior years of high school in California. Do I qualify to pay in-state tuition under this law?

NO. In order to be exempt from paying out-of-state tuition, undocumented students must meet ALL of the following requirements to qualify for a waiver under AB 540:

- Attend high school in California for 3 or more years; AND
Graduate from a California high school with a diploma, or obtain the equivalent thereof (such as a GED or the California High School Proficiency Exam); AND
File an affidavit with the California community college or university the student is currently attending or will attend stating:
1) The student meets all of the above requirements; and
2) If the students are undocumented, they are in the process of adjusting their immigration status or will adjust their immigration status as soon as they are eligible to do so.

2. Does the AB 540 law apply to all public systems of higher education in California?

YES. All three public systems of higher education in California have adopted AB 540 as part of their educational code. This includes the University of California, California State University and California Community Colleges.

3. What is the cost difference between in-state vs. out-of-state tuition?

2008-2009 tuition costs are as follows:

Table with 3 columns: Institution, In-state tuition, and Out-of-state tuition. Rows include California Community Colleges (CC), California State University (CSU), and University of California (UC).

1 Samples of the current affidavit can be found in the AB 540 section of the MALDEF website.

2 These amounts are tuition only and may not include additional enrollment fees.

4. As an AB 540 student, how do I fill out my college/university admissions application?

We recommend eligible AB 540 students consult with an admissions officer regarding their application inquiries. Generally, there are TWO sections of your application that should be left BLANK:

- 1) Social Security Number box should be left BLANK (unless the applicant has a valid social security number issued by the Social Security administration that may be used for purposes other than work); and
- 2) Immigration Status box should be left BLANK.

All information contained in the application should be truthful, particularly with regard to immigration status and social security information, because providing false information could potentially jeopardize an individual's future efforts to adjust his or her immigration status. In general, the application requires social security number and immigration status information in order for the school to determine whether the student will be classified as a California resident or not. After students have been accepted by a Cal State or a UC university, they should fill out and send the AB 540 affidavit to the admissions and/or registrars office. For community colleges, students must turn in the AB 540 affidavit the same day they register at the college.

5. AB 540 requires that I submit a sworn statement or an affidavit to the admissions office of the college or university that I am attending. What type of information do I have to include in the affidavit?

All students seeking an exemption from non-resident tuition fees must file an affidavit with the student's college or university stating that the student meets the law's requirements and, if the student is not a U.S. Citizen or legal permanent resident, that the student is either in the process of adjusting his or her immigration status or will do so as soon as he or she is eligible to do so. These affidavits are available at all public colleges or universities. By signing the affidavit, the student makes a personal oath to the college or university that all information the student provided in the affidavit is truthful and accurate. These affidavits often ask the student to provide information such as the name of the California high school the student attended, the dates of attendance, and the student's name, address, student ID number and signature.

6. Will the college or university I am or will be attending share the information I provide in the affidavit with U.S. Citizenship and Immigration Services (USCIS) or Immigration and Customs Enforcement (ICE)?

No. Under California law, the information you provide in the affidavit must remain confidential.

7. If I am eligible for the AB 540 tuition exemption, will I be considered a California resident at the public college or university where I enroll?

NO. A student who qualifies for AB 540 is classified as a "nonresident student with AB 540 exemption" by the higher education institution he or she attends.

8. Can I apply for AB 540 status at private universities or technical colleges like USC, Stanford, ITT Tech, Bryman College, etc.?

NO. AB 540 applies only to PUBLIC community colleges and universities in California. Private colleges set their own tuition policies. If you are interested in attending a private institution, contact the admissions counselor of the institution you are considering to discuss what fees you would be required to pay and whether you may qualify for any scholarships they offer. Also, undocumented AB 540 students are not international students because they do not hold a student visa, and should not apply as such.

9. Does it matter how long ago a student graduated from a California high school to be eligible for the AB 540 tuition exemption?

NO. The date of high school graduation does not affect a student's eligibility for the AB 540 tuition exemption. So long as the student attended a California high school for at least 3 years prior to graduation, the student will be eligible to apply for the AB 540 exemption.

10. Do I qualify under AB 540 if I attended an adult school in California for three years and have a GED?

Attending an adult school is not equivalent to attending a high school and does not generally satisfy the requirement under AB 540 that a student attend a California high school for 3 or more years. However, if the adult school was an "evening high school," there are some higher education institutions that may accept adult school as the equivalent of attending a high school. If you attended an adult school and would like to know about your AB 540 eligibility, please consult with the AB 540 counselor or admissions counselor at the college or university you are considering attending.

11. Can a Certificate of Completion meet the high school diploma equivalent for AB 540?

A Certificate of Completion is generally NOT the equivalent of graduating from high school. Because a Certificate of Completion is given to students who completed all of the required high school curriculum, but did not pass all of their high school exit exams, it is not the equivalent of a high school diploma. A Certificate of Completion is insufficient to gain admission to institutions in the Cal State or UC systems without also obtaining a GED. However, once a student receives his or her GED, the student may be eligible to attend the institution and to apply for the AB 540 exemption. However, some community colleges may accept the Certificate of Completion in lieu of a high school diploma to meet the AB 540 requirement. Please consult with the AB 540 counselor or admissions counselor at the college or university where you are applying for more information.

12. Do I qualify for any type of state or federal financial aid?

NO. Undocumented AB 540 students do not qualify for any type of state (e.g. BOG Fee Waiver at the community college, EOPS and Cal Grant) or federal (e.g. FAFSA, Pell, and SEOG) financial aid. Students may meet the financial requirements to receive these awards, but state and federal laws prohibit undocumented immigrant students from receiving any type of government-subsidized educational benefits. However, undocumented immigrant students may qualify for PRIVATE scholarships that do not require verification of legal immigration status. Students should visit www.maldef.org for a list of these types of awards. Undocumented immigrant students should also look into fundraising, savings, and other opportunities to supplement the cost of their education.

13. Where can I look for scholarships that do not require applicants to have legal immigration status?

MALDEF's website can provide you with an extensive list of scholarships that do not inquire into the applicant's immigration status or do not require the applicant to present a social security number to redeem the award. However, we recommend that you contact scholarship organizations directly and ask if you meet the criteria to receive the scholarship if you are selected. Please browse through the following websites for additional scholarship lists: www.chci.org/chciyouth/resources/2008-2009_Directory.pdf, <http://latinocollegedollars.org/>, www.fastweb.com/, www.scholarships.com, and www.scholarshiphelp.org. **DO NOT** pay anyone or any organization or company to apply for scholarships or for access to scholarship lists. Legitimate scholarships **NEVER** ask for an application fee. Beware of scholarship scams.

14. Do I qualify for an educational loan as an undocumented student?

Undocumented students do not qualify for any type of federal or California state financial aid including educational loans because federal law prohibits them from receiving these loans. Students who are interested in financing their education with private loans should contact private lending institutions to determine their eligibility for these loans.

15. What will happen if I have already given the school a Social Security number that does not belong to me, or stated that I am a United States citizen or lawfully present immigrant and I am not?

If you are eligible to apply for AB 540 but have falsified information regarding your immigration status in the past with your college or university or any other state or federal agency, you should seek legal advice from a licensed immigration attorney. Falsely claiming to be a United States citizen or a legal permanent resident is considered immigration fraud and may cause you to be ineligible to legalize your immigration status if you become eligible to do so in the future. For a referral to a licensed immigration attorney call the State Bar of California at (866) 442-2529 or American Immigration Lawyers Association www.aila.org.

16. I am a student with a valid student visa. Am I eligible for the AB 540 tuition exemption?

NO. AB 540 is only available to United States citizens, legal permanent residents, and undocumented immigrant students who meet the eligibility requirements outlined under AB 540. AB 540 does not permit individuals with any type of nonimmigrant visas (which include student visas) to receive the AB 540 nonresident tuition exemption. Because individuals with student visas are classified as “nonimmigrant aliens” under United States immigration law, they cannot receive the AB 540 exemption.³ **However, nonimmigrants whose visas have expired – including those with expired student visas – are no longer classified as nonimmigrants under United States immigration law since their immigration status expired. If your nonimmigrant visa has expired and you are currently undocumented, you are eligible to apply for the AB 540 tuition exemption.** Even though students with nonimmigrant visas cannot qualify for the AB 540 exemption, some nonimmigrants (not including those with student visas) may be able to establish California residency for tuition purposes. Students with valid nonimmigrant visas should consult with an admissions counselor or the residency deputy at the institution they are considering attending to find out if they meet the California resident criteria.

17. Does AB 540 change my immigration status?

NO. AB 540 only determines what tuition rate a student pays. It **DOES NOT** change your immigration status, and it **DOES NOT** create a path to legalize your immigration status. If you have questions about your ability to adjust your immigration status, please consult with a licensed immigration attorney. For a referral to a licensed immigration attorney, call the State Bar of California at (866) 442-2529 or American Immigration Lawyers Association www.aila.org.

18. Do I need to be in the legalization process to qualify for AB 540?

NO. Both students that are already in the process of adjusting their status and those that are not yet in the process of adjusting their status qualify to apply for the tuition exemption under AB 540. The affidavit that students must sign in order to receive the AB 540 exemption contains a provision requiring the student to swear or affirm that they will start the process to adjust their status as soon as they are eligible to do so.

³ As described in the language of AB 540, a nonimmigrant is defined in paragraph (15), subsection (a), Section 1101 of Title 8 of the United States Code. Visa holders in the following categories are considered “nonimmigrant aliens:” A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, and V.

19. If I want to attend a graduate program or a professional school (e.g., law school), can I use the AB 540 exemption?

If you obtain admission to a graduate or professional program at a California public university and meet the requirements for AB 540, then you are eligible for the out-of-state tuition exemption. If you are interested in a particular graduate or professional program, please contact the admissions counselor of that program to ask about the program's specific admissions requirements. If you are denied admission and you believe it is because of your immigration status, please contact MALDEF.

For more information contact the

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