

STANDING UP FOR AB 540



Institutional Solutions
Expanding Equity in Higher Education

A Guide for Administrators & Educators

Overview

On November 20, 2025, the U.S. Department of Justice filed suit challenging California's long-standing in-state tuition policies, commonly known as AB 540. With this action, California becomes the sixth state targeted in a growing wave of federal challenges to state tuition equity laws, despite decades of legal precedent affirming that states have the authority to set their own higher education policies.

AB 540, first enacted in 2001 and expanded several times while maintaining full compliance with federal law, has enabled thousands of California students to pursue their education. This resource provides institutions and educators with clear guidance on what the lawsuit does and does not change, explains the continued legality of AB 540, and outlines concrete steps to support students, uphold state law, and communicate confidently during this period of heightened attention.

Continued attacks on California for ensuring access to all students, regardless of immigration status, are ongoing. We must all stay committed to uphold state laws.

Key Points

- State laws remain valid unless and until they are overturned by a court.
- [AB 540](#) was enacted in 2001 in compliance with federal laws:
 - [8 U.S.C. § 1623](#) & [8 U.S.C. § 1621\(d\)](#)
- AB 540's eligibility requirements, expanded through [AB 2000](#), [SB 68](#) & [SB 1141](#), have consistently maintained compliance with federal law.
- AB 540 is available to eligible students, including U.S. citizens, lawful permanent residents, persons granted DACA, TPS or U non-immigrant status, as well as students without a current immigration status.
- AB 540 exempts eligible students from paying nonresident tuition; however, it does not change their state residency status.
- AB 540 was upheld by the California Supreme Court in 2010
 - [Martinez v. Regents of the UC](#)
- Many advocates are already actively standing up for AB 540, and the CA Attorney General has made it clear they will defend against this lawsuit, [Cal Matters](#),



Recommendations for Institutions

- **Do Not Make Preemptive Changes**
 - California's in-state tuition policies (AB 540) have consistently withstood legal scrutiny.
 - Continue enforcing current policies while monitoring legal developments.
- **Affirm State Authority**
 - Publicly reaffirm that California retains the legal authority to set tuition policy and that executive orders alone do not change state laws.
- **Comply with Relevant State & Federal Protections:**
 - Ensure compliance with the protections required through the CA Model Policies for Colleges & Universities and FERPA.
 - Implement guidance issued by the leadership of the California Community Colleges, California State Universities & University of California and the CA Student Aid Commission.
- **Communicate Clearly**
 - Develop consistent messaging for students and their families, educators, and policymakers that emphasizes the legality, effectiveness, and broad support for tuition equity.
- **Host Informational Sessions**
 - Host informational sessions & trainings for staff and faculty to get accurate, up-to-date information, debrief, and ask questions.
- **Document and Share Impacts**
 - Work with key personnel to gather data and stories showing how in-state tuition access benefits students, strengthens institutions, and advances California's economy. Find California-specific data [here](#).
- **Support Litigation:**
 - Submit a declaration describing concrete harms or join an amicus brief to show solidarity with the higher education sector.



Recommendations for Educators

- **Reassert Accessibility**
 - Let students know that AB 540 & the CA Dream Act remain fully in place
 - Remind students and their families of the protections required through the CA Model Policies for Colleges & Universities, FERPA and systemwide guidance from CCC, CSU & UC.
 - Translate your messaging and talking points to the languages families speak in your district.
- **Reaffirm Individual Responsibility**
 - Remind your coworkers that compliance with AB 540 & CA Dream Act continues to be required.
 - Share this resource with your colleagues, including undocumented student support personnel, directors of financial aid and admissions, as well as administrators and key partners from your feeder schools.
- **Make Your Support Visible**
 - Display posters, stickers, or signs to signal your commitment to uphold the law and support undocumented and other immigration-impacted students
 - Wear the “I Heart CA DREAM Act” shirt, pin, or poster to increase visibility and reassurance!
- **Continue to Be Courageous**
 - Bookmark the new Courageous Conversations Toolkit, which includes legal framing and key resources to strengthen your practice & meet the moment.
 - Do something every day that brings you joy and strengthens your resolve.
- **Create Collective Spaces within Your School or Organization**
 - Host teach-ins or courageous conversation circles to create space for staff and faculty to debrief, fact-check and build community with others.
- **Stand Together with Others**
 - Find your people at the Presidents Alliance on Higher Education & Immigration, National Immigration Law Center, UndocuScholars LLC, California Student Aid Commission, California Undocumented Higher Education Coalition, Immigrants Rising & Institutional Solutions

Resources To Support Your Work



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Specific to the Department of Justice Lawsuit Against California

- Misguided Lawsuit against California's In-State Tuition Policy for Undocumented Students, Presidents' Alliance on Higher Education & Immigration, Nov. 2025
- Statement on the Department of Justice's Complaint against California's In-State Tuition and Financial Aid Policies Immigrants Rising, Nov. 2025
- Tuition Equity for Undocumented Students is Good for Everyone Corinne Kentor, Nov. 2025
- Misinformation Spreads as Trump Moves to Cut Aid for Some CA Students, Cal Matters Dec. 2025

General Guidance

- EOM 2025-08: AB 540 and Compliance with the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)" CSAC, Aug. 2025
- In-State Tuition and Scholarships for Undocumented Students: What Institutions Should Know, Presidents' Alliance on Higher Education & Immigration, Aug. 2025
- Preemptive Obedience in Higher Education, Maria G. Pacheco, Nov. 2025
- It's Time to Pull the Fire Alarm, Miriam Feldblum, Nov. 2025

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