Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 266 (Delegate Stein, *et al.*)
Appropriations Education, Health, and Environmental Affairs

Public Senior Higher Education Institutions - Financial Aid - Reduction Restrictions

This bill authorizes a public four-year institution of higher education to reduce *institutional* gift aid offers as a result of private scholarship awards under specified circumstances. First, when a student's total gift aid from all sources exceeds the student's financial need, a student's institutional gift aid may be reduced until the student's total gift aid no longer exceeds the student's financial need. Second, a student's institutional gift aid may be *further* reduced with approval from the organization that awarded the private scholarship funds that triggered the initial reduction. Finally, a student athlete's institutional gift aid may be reduced in order to comply with the National Collegiate Athletic Association's individual or team financial aid restrictions. Nothing in the bill may be construed to violate federal law or regulations relating to the award of any need-based financial aid or any federal aid.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: None. It is assumed that public four-year institutions of higher education can make the authorized changes using existing resources. The total amount of institutional gift aid that an institution has to distribute among students is not affected; however, individual students' award packages may be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "Cost of attendance" (COA) is defined in the bill as the meaning stated in 20 USCA § 1087ll, which generally includes tuition and fees, an allowance for books, and an allowance for room and board, with adjustments made for students in various specified circumstances such as students who are enrolled less than half time.

"Expected family contribution" (EFC) is defined as the amount determined in accordance with 20 USCA § 1087nn, which is generally calculated using the Free Application for Federal Student Aid (better known as FAFSA).

The bill defines "financial need" as COA minus EFC.

"Gift aid" is defined to be all financial aid that is not a loan or work-study program, including grants, scholarships, tuition waivers, and third-party payments.

"Institutional gift aid" is defined to be gift aid that is funded by a public four-year higher education institution.

"Private scholarships" is defined to be scholarships awarded by companies, private foundations, nonprofit organizations, and service groups. However, it does not include awards funded by a private organization that (1) is affiliated with a higher education institution and (2) requests the higher education institution's assistance in selecting recipients.

If any provision of the bill or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of the bill that can be given effect without the invalid provision or application. For this purpose, the provisions of this bill are declared severable.

Current Law/Background: The process of awarding financial aid without exceeding the student's financial need is known as packaging. Many institutions use packaging software to develop award packages for prospective students. The software can be configured to implement an institution's packaging philosophy. Institutions of higher education package and distribute financial aid from many sources to students. When a student receives financial aid from another entity after the initial financial aid package is formed, the institution may reduce the amount of institutional aid (or other types of financial aid in some circumstances) a student receives. This practice is known as scholarship displacement. In some cases, depending on the type of aid being offered, the displacement is required by U.S. Department of Education regulations. What the department considers "over awarding" is based on an individual's financial need as calculated by FAFSA. The federal regulations regarding over awarding are in 34 CFR 673.5.

According to the U.S. Department of Education, an over award exists whenever:

- a school awards aid either to a student who is ineligible for a specific program or to a student who is ineligible for any federal student aid program assistance;
- a student's award in an individual program exceeds the regulatory maximum, *e.g.*, the annual or aggregate loan limits, the annual limit on Federal Supplementary Educational Opportunity Grant awards, or a Pell Grant award based on the wrong payment schedule/enrollment status;
- a student's aid package exceeds his or her need (including when the student's EFC is revised upward after initial packaging);
- a student's award exceeds his or her COA; or
- a student is receiving a Pell Grant or Iraq and Afghanistan Service Grant at multiple schools for the same period.

In general, unless a school is liable, a student is liable for any overpayment made to him or her.

There are exceptions to when an institution must recalculate financial aid, such as if a student's Pell Grant award exceeds COA by $300 or less.

An institution that regularly over awards students and does not remedy the situation as required by the U.S. Department of Education may lose access to federal financial aid funds related to Title IV.

The U.S. Department of Education grants institutions latitude in deciding how to remedy an over award situation. A survey by the National Scholarship Providers Association in 2013 asked respondents to specify all of the options they use to respond to an over award. According to the results, of the institutions surveyed, 80% reduce self-help, 50% reduce institutional gift aid (in the form of grants, scholarships, or tuition reimbursements), 50% contact the scholarship donor or the student to discuss options, and almost 33% use professional judgment to increase the student's COA. In addition, a sixth of colleges reduce state gift aid, mainly because many states require colleges to treat state grants as last dollar.

Award displacement can also happen when there is not an over award under U.S. Department of Education regulations. Some institutions have policies that leave all students with unmet need, for example, requiring every student to have a "minimum student contribution expectation" – regardless of the amount of financial aid, EFC, or income. Many of these institutions do not allow private scholarships to satisfy the student contribution expectation even though the student is not over awarded. Typically the "minimum student contribution expectation" is between $1,500 and $3,500, according to a 2013 report by the National Scholarship Providers Association. In such cases, institutions reduce total financial aid until the student has an unmet need that matches the minimum student contribution. Institutions that do so usually have a minimum student contribution for one of the following reasons:

- a way of rationing limited institutional financial aid funds;
- an assumption that all students are capable of contributing something to their education;
- a method for a for-profit institution to comply with the 90/10 rule, which limits the percentage of the institution's revenues that can come from Title IV federal student aid;
- a belief by the institution that a student contribution is necessary for the student to appreciate the education; or
- a belief by the institution that a student contribution improves academic performance.

Institutions are not required to inform financial aid providers when they decrease a student's institutional aid due to award displacement.

During the 2014-2015 academic year, students at Maryland public four-year institutions of higher education received $1.0 billion in financial aid from all sources including federal, State, private, and institutional. Total financial aid consists of all forms of financial aid including grants, loans, scholarships, and work study from all sources. As shown in **Exhibit 1,** *institutional* aid at public four-year institutions totaled $157.7 million for the 2014-2015 academic year. Institutional aid totals approximately 15% of total financial aid. The bill only applies to institutional-based financial aid.

Exhibit 1
Undergraduate Institutional Aid by Type of Institution and Type of Aid
2014-2015 Academic Year
($ in Thousands)

	Grant	Loan	Athletic Scholarship	Other Scholarship	Work Study	Total Institutional Aid
USM	$57,101	$0	$13,852	$66,034	$2,888	$139,875
MSU	6,024	0	3,249	2,955	0	12,228
SMCM	3,073	0	0	2,554	0	5,627
Total	**$66,198**	**$0**	**$17,101**	**$71,544**	**$2,888**	**$157,730**

USM: University System of Maryland
MSU: Morgan State University
SMCM: St. Mary's College of Maryland

Source: Maryland Higher Education Commission; Maryland Student Financial Aid Support 2014-2015

State Fiscal Effect: It is assumed that public four-year institutions of higher education can make the authorized changes using existing resources. The total amount of aid an institution has to distribute among students is not affected; however, individual students' award packages may be affected.

St. Mary's College of Maryland advises that it currently adjusts its financial aid in the manner described in the bill if a student's total gift aid exceeds the student's financial need.

The University System of Maryland (USM) advises that institutional funds are pre-awarded (as a tentative award) to a student based on a projected need (*i.e.*, a student registering as a full-time student living on campus). Institutional awards may be reduced because the student received funds from other sources or the student decided not to live on campus. USM advises that, in many instances, the student still shows a financial need (when comparing COA to EFC), but the student's semester bill is satisfied. In those instances, institutions may have decreased institutional funds in an effort to make more funds available to students who not only showed a financial need based on COA compared to EFC, but also still had a remaining balance for the semester. USM further advises that, under the bill, institutions will not reduce institutional awards unless students are over their need, which most likely results in additional students who do not have enough funds to cover their semester balance.

The Department of Legislative Services (DLS) advises that a student who has COA in excess of EFC and receives a financial aid refund check from the institution is expected to use that money to assist with living expenses and other COA not directly paid to the institution, such as books, supplies, transportation, and miscellaneous personal expenses. For example, a student with a low EFC living with relatives off-campus could need financial aid in excess of the tuition and fees owed the institution (the student's institutional balance) to pay for books and transportation.

DLS further advises that, under the bill, students who do not file a FAFSA (and, thus, have no EFC) may receive gift aid without reduction up to the full COA. The Maryland Higher Education Commission advises that institutions have the data required to adjust gift awards in the manner described in the bill.

Additional Information

Prior Introductions: SB 313 of 2016, a similar bill, passed the Senate and received a hearing in the House Appropriations Committee, but no further action was taken. Its cross file, HB 231, received a hearing in the House Appropriations Committee, but no further action was taken.

Cross File: SB 327 (Senator Young, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Higher Education Commission; University System of Maryland; Morgan State University; National Scholarship Providers Association; U.S. Department of Education; National Collegiate Athletic Association; Department of Legislative Services

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