

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 420

(Delegate Lierman, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

Higher Education - Financial Aid - In-State Students (The Jill Wrigley Memorial
Scholarship Expansion Act)

This bill expands eligibility for the Delegate Howard P. Rawlings Educational Excellence Award (EEA) and the Part-time Grant programs to include individuals who are eligible for in-state tuition under the Education Article. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: Individuals can be added to the EEA and Part-time Grant wait lists at no additional cost. Expanding *eligibility* for the use of these grants without adding to the wait lists may require general fund expenditures. The Maryland Higher Education Commission (MHEC) and public higher education institutions can process any additional grant applications using existing resources. Revenues are not affected.

Local Effect: Local community colleges can process any additional Part-time Grant applications using existing resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law:

Delegate Howard P. Rawlings Education Excellence Award Program

The Delegate Howard P. Rawlings Educational Excellence Award program consists of two types of awards for full-time undergraduate students: (1) Guaranteed Access (GA) grants that are awarded to the neediest students to ensure that 100% of educational costs are paid; and (2) Educational Assistance (EA) grants that are awarded to low- and moderate-income students to assist in paying educational costs.

The GA grant is a need- and merit-based scholarship intended to meet 100% of financial need for full-time undergraduates from low-income households. Qualified applicants must have a cumulative high school grade point average of at least 2.5 on a 4.0 scale. MHEC extended the income limits for renewals to 150% of the federal poverty level to prevent a student who may work in the summertime from exceeding the original 130% income cap.

The EA grant is a need-based scholarship intended to meet 40% of financial need at four-year institutions and 60% at community colleges for full-time undergraduates from low- to moderate-income families. The maximum award amount authorized by statute is \$3,000. The current maximum amount awarded is \$3,000.

An EEA award may be used at a degree-granting institution of higher education, an eligible institution with an associate's degree program that provides transfer credit for an accredited baccalaureate program, or a hospital diploma school for training registered nurses if the curriculum is approved by MHEC.

The award may be used for educational expenses as defined by MHEC, including tuition and fees and room and board.

An EEA award may be used at a school in another state if (1) there is a specified reciprocal agreement and (2) the school meets the same requirements that an in-state school must meet. The Office of Student Financial Aid (OSFA) may not award more than 10% of the funds available for either the GA grant or the EA grant for use by students attending schools in another state.

Part-time Grant

The Part-time Grant program provides grants to undergraduate students taking at least 3 but no more than 11 hours of courses each semester or who are dually enrolled in a secondary school in the State and an institution of higher education. Recipients must be

Maryland residents and must demonstrate a definite financial need. Funds for the program are allocated by MHEC to institutions of higher education based on the number of part-time students with demonstrated financial need who are enrolled at the institution. Grants are distributed to students by the institutions based on guidelines established by MHEC.

In-state Tuition

For institutions within the University System of Maryland (USM), the Board of Regents sets tuition policies, including the determination of which students are eligible for resident (*i.e.*, in-state) tuition. The basic policy requires students to be identified as permanent residents of Maryland to qualify for resident tuition, meaning they have lived continuously in the State for at least 12 months immediately prior to attendance at a USM institution. An individual who is residing in Maryland primarily for the purpose of attending an educational institution is not considered a permanent resident.

The Board of Regents of Morgan State University and the Board of Trustees of St. Mary's College of Maryland set tuition policies for those institutions. The policies for the institutions are very similar to the USM policies. Both institutions require one year of residency in Maryland to qualify for in-state tuition rates.

Typically there is a three-month residency requirement for community colleges.

Chapter 191 of 2011, known as the Dream Act, allows an individual who attended and graduated from a Maryland high school to be exempt from paying out-of-state tuition and, in certain instances, out-of-county tuition, at *community colleges* in Maryland under specified circumstances. Nonimmigrant aliens who are in the country on student visas do not qualify for the exemption, but otherwise the exemption applies regardless of residency status. An individual who graduates from or earns a certain number of credits from a community college under the law is then exempt from paying nonresident (*i.e.*, out-of-state) tuition at a public four-year higher education institution in Maryland, under specified circumstances.

An active-duty member of the U.S. Armed Forces and his or her spouse and financially dependent children are exempt from nonresident tuition charges if the member is stationed in Maryland, resides in Maryland, or is domiciled in Maryland. If the member ceases to be stationed in Maryland, reside in Maryland, or be domiciled in Maryland, the spouse and/or children of the member remain qualified for resident tuition if the spouse and/or children are continuously enrolled at a public institution of higher education.

An honorably discharged veteran of the U.S. Armed Forces is also exempt from nonresident tuition if the veteran presents documentation that the individual was honorably discharged and resides in the State or is domiciled in the State.

Members of the Maryland National Guard are also exempt from paying nonresident tuition at public institutions of higher education in Maryland.

Specified veterans and their spouses and children using GI Bill education benefits must receive in-state tuition under the federal Choice Act and Chapter 279 of 2015.

Background:

Jill Wrigley

According to her [obituary](#) in the Baltimore Sun, Jill Wrigley was an attorney committed to social justice issues. She was active on a number of social justice issues, including helping to found the Baltimore office of the Latino advocacy group CASA of Maryland, increasing access to fruits and vegetables for Baltimore school children, working with the [Great Kids Farm](#) to engage Baltimore City Public Schools students, building a hotline for workplace rights at the Women’s Law Center of Maryland, and counseling labor unions in Washington, DC. Ms. Wrigley had also taught a seminar on food and food systems at the University of Maryland Baltimore County (UMBC). She died of lung cancer at her home in southwest Baltimore on October 5, 2016.

There is a Jill Wrigley Award (an honor and certificate) granted to a UMBC student each spring to honor their contribution of service in each of three categories: service to the interdisciplinary studies program at UMBC; service to the UMBC community; and service to the community outside of UMBC.

Undocumented Students

Under *Plyler v. Doe*, a 1982 Supreme Court decision, public elementary and secondary schools are required to accept undocumented immigrants. In its decision, the court contended that denying an education to the children of undocumented immigrants would “foreclose any realistic possibility that they will contribute...to the progress of our Nation.” However, since 1996, federal law has prohibited undocumented immigrants from obtaining a postsecondary education benefit that U.S. citizens cannot obtain. To get around the federal law, states that have passed in-state tuition benefits for undocumented immigrants have crafted legislation that bases eligibility on where a student went to high school, not immigration status. Maryland enacted such legislation in 2012 after Chapter 191 of 2011, known as the Dream Act, was petitioned to referendum and approved by Maryland voters.

In 2012, the U.S. Department of Homeland Security issued the federal deferred action for childhood arrivals (DACA) policy (pursuant to an executive order) to allow young unauthorized immigrants who are low enforcement priorities to remain in the country. The future of the program is uncertain. In 2017, the Trump administration announced that the

program was going to end, leading to a lawsuit. Due to a ruling of a judge in the lawsuit, as of February 13, 2018, individuals in the DACA program continue to be covered by the legal protections granted by DACA; however, the judge declined to extend the program for new applicants. As reported in the *Washington Post*, the judge stated that the administration indisputably has the right to end the program; however, the administration used a flawed legal position to do so.

DACA does not grant an individual legal immigration status or provide a pathway to citizenship, but it does provide individuals with a temporary lawful status. To be eligible for DACA, an individual must meet specified requirements including (1) being younger than age 31, as of June 15, 2012; (2) having arrived in the United States prior to the age of 16; and (3) either being currently in school or having graduated or obtained a certificate of completion from high school, having a GED, or having been honorably discharged from the U.S. Coast Guard or U.S. Armed Forces. Individuals eligible for DACA must not have been convicted of a felony, significant misdemeanor, three or more other misdemeanors, or otherwise pose a threat to national security or public safety.

According to the National Conference of State Legislatures, as of July 2015, 20 states, including Maryland, offer in-state tuition to undocumented immigrant students, 16 by state legislative action and 4 by state university systems. The laws that grant in-state tuition typically require attendance and graduation at state high schools, acceptance at a state college or university, and promising to apply for legal status as soon as eligible. In 2015, Connecticut reduced the number of high school years an undocumented immigrant must attend in the state from four to two.

Since DACA status has been interpreted by some to grant individuals with DACA status, legal status, many institutions of higher education, including the [University of Maryland, College Park Campus](#), have allowed some individuals eligible for DACA status for the 12 consecutive months prior, to be eligible for in-state tuition.

During the fall 2016 semester, approximately 500 students at community colleges and 45 students at public four-year institutions received in-state tuition under Maryland's Dream Act (Education Article § 15-106.8). Slightly fewer such students received in-state tuition in the spring 2017 semester.

As of September 2017, approximately 8,100 individuals in Maryland had active DACA status. It is unknown how many of those individuals are receiving in-state tuition based on their DACA status, but they do not qualify for in-state tuition under the Maryland Dream Act.

Delegate Howard P. Rawlings Education Excellence Award Program Budget

The Governor's fiscal 2019 proposed budget includes \$84.7 million for the EEA program. According to the *Managing for Results* document, in fiscal 2017, OSFA awarded 1,609 GA grants, totaling \$21.5 million. In fiscal 2017, OSFA awarded 23,238 EA grants, totaling \$51.0 million. MHEC advises that, at the end of fiscal 2017, approximately 18,800 students remained on the EEA wait list.

Part-time Grant Program Budget

The Governor's fiscal 2019 proposed budget includes \$5.1 million for the Part-time Grant program. According to the *Managing for Results* document, in fiscal 2017, institutions of higher education made 5,269 awards under the Part-time Grant program, totaling \$5.0 million.

State Fiscal Effect: Additional individuals can be added to the EEA and Part-time Grant wait lists at no additional cost. Funding levels for the EEA and Part-time Grant programs are determined by the State budget; therefore, any additional expenditures resulting from an expansion of the EEA and Part-time Grant programs are only incurred if the annual State budget includes new funding to make additional awards.

Based on fiscal 2017 expenditures, expanding eligibility for EEA without adding to the wait list may result in general fund expenditures of approximately \$14,500 for each additional GA grant and approximately \$2,200 for each additional EA grant awarded beginning in fiscal 2019. Likewise, expanding eligibility for the Part-time Grant program without adding to the wait list may result in general fund expenditures of approximately \$944 for each additional award under the Part-time Grant program beginning in fiscal 2019.

It is unknown how many additional individuals will be eligible to receive an EEA or Part-time Grant award under the bill. However, given the number of students who received in-state tuition under the Dream Act, it is assumed that approximately 500 community college students and 45 public four-year students will be eligible for both types of grants under the bill if the students meet the other eligibility requirements. It is unknown how many other individuals will qualify for the grants under this bill.

Individuals who qualify for in-state tuition *only* under DACA will not be eligible for either EEA or the Part-time Grant under the bill because they do not qualify for in-state tuition *under the Education Article*. However, individuals who qualify for DACA *and* under the Maryland Dream Act will qualify for both EEA and the Part-time Grant.

Additional Information

Prior Introductions: HB 867 of 2017 received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: SB 532 (Senator Pinsky, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Baltimore City Community College; Maryland Higher Education Commission; University System of Maryland. St. Mary's College of Maryland; *Washington Post*; U.S. Citizenship and Immigration Services; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2018
md/rhh Third Reader - March 19, 2018

Analysis by: Caroline L. Boice

Direct Inquiries to:
(410) 946-5510
(301) 970-5510