

Memorandum 82-50

Subject: Study D-300 - Enforcement of Judgments (AB 707)

The Commission has received a request that consideration be given to providing an exemption from enforcement of a money judgment for financial aid provided to a student for expenses while attending a post-secondary educational institution. See the letter from Nicholas S. Aguilar attached as Exhibit 1. We received a similar oral request from a representative of the UC student lobby.

Student aid provided by a post-secondary educational institution is in an amount determined necessary for the support of the student while attending the institution. An exemption of such aid would be consistent with other exemptions which exempt amounts necessary for support. Accordingly, the staff recommends that a provision be added to Assembly Bill 707 to provide an exemption for student aid. A draft of such a provision is attached as Exhibit 2.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

UNIVERSITY OF CALIFORNIA, SAN DIEGO

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LA JOLLA, CALIFORNIA 92093

January 13, 1982

Mr. John DeMoulli
California Law Revision Commission
4000 Middlefield Road
Room D-2
Palo Alto, California 94306

Re: Proposal to Amend Assembly Bill No. 707, An Act to Add
Title 9 (Commencing with Section 680.010) and to Repeal
Title 9 (Commencing with Section 681) of Part 2 of the
Code of Civil Procedure, Relating to Enforcement of Judgments

Dear Mr. DeMoulli:

Per our telephone conversation of January 12, 1982 regarding the above referenced matter, below please find a draft of the amendment to Title 9, Chapter 4, Article 3 (commencing with Section 704.010) relating to the addition as exempt property of financial aid proceeds awarded to students for expenses while attending a post-secondary educational institution.

The proposed text is as follows:

"704.181. Before payment, financial aid for expenses while attending school provided to a student by a post-secondary educational institution as defined in 20 USC §1141(a) as amended by Pub. L. 44-482, Title I, §181, Oct. 12, 1976, 90 Stat. 2167 is exempt without making a claim. After payment, the aid is exempt".

I have enclosed a copy of 20 USC §1141(a) for your information.

Thank you for your assistance in this matter. If you have any questions regarding any of the above, please contact me at your earliest convenience.

Respectfully yours,

A handwritten signature in dark ink, appearing to read "Nicholas S. Aguilar", written over a horizontal line.

NICHOLAS S. AGUILAR
Counseling Attorney
UCSD Student Legal Services

cc: J. Bagneris, SBPC
D. Dorinson, General Counsel/Systemwide
D. Morrison, Asst. Director/CSAC
F. Sivian, UC Student Lobby
J. Watson, VC, Undergraduate Affairs

(fhh)

SUBCHAPTER XII—GENERAL PROVISIONS

§ 1141. Definitions

As used in this chapter—

(a) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). For purposes of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered. Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.

[See main volume for text of (b) to (f)]

As amended Pub.L. 94-482, Title I, § 181, Oct. 12, 1976, 90 Stat. 2167.

EXHIBIT 2

§ 704.135. Financial aid provided to student by institution of higher education

704.135. (a) As used in this section, "institution of higher education" means "institution of higher education" as defined in Section 1141(a) of Title 20 of the United States Code, as amended.

(b) Before payment, financial aid for expenses while attending school provided to a student by an institution of higher education is exempt without making a claim. After payment, the aid is exempt.

Comment. Section 704.135 is a new provision that provides an exemption for financial aid provided to a student by an institution of higher education. The section adopts the definition found in Section 1141(a) of Title 20 of the United States Code, as amended. This provision, as amended by Pub. L. 44-382, Title I, § 181, Oct. 12, 1976, reads:

(a) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). For purposes of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered. Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.