

STATE OF CALIFORNIA

**CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE**

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October 10, 2006

TO: Chief Executive Officers
Chief Instructional Officers
Student Services Officers
Community College Attorneys
Admissions and Records Officers
Transfer Center Directors
Matriculation Coordinators
Financial Aid Directors

FROM: Steven Bruckman
Executive Vice Chancellor and General Counsel

SUBJECT: AB 540 Litigation:
Martinez v. Regents of the University of California, et al.
Legal Advisory 06-03

Many of you are aware that a lawsuit was filed in state court in December 2005 seeking to invalidate Education Code section 68130.5. Section 68130.5 was created by AB 540 and took effect January 1, 2002. It creates an exemption from the payment of nonresident tuition for those students who attended high school in California for three or more years and who graduated from a California high school or attained the equivalent of high school graduation.

The Board of Governors and Chancellor Drummond were named as defendants in the lawsuit, as were the UC Regents and President Dynes and the CSU Trustees and Chancellor Reed. The three segments of California public higher education joined in a defense of AB 540 and in support of the opportunity for higher education that AB 540 represents for so many California high school graduates.

On October 2, 2006, Yolo County Superior Court Judge Thomas Edward Warriner signed his decision reflecting our argument that the plaintiffs' challenges were flawed as a matter of law. Accordingly, he dismissed the action without leave to amend. While it is possible, and even likely, that the plaintiffs will file an appeal, we wanted to be sure that you all know the current status of the law.

Districts are required to continue to implement Education Code section 68130.5 unless and until an appellate court finds the statute invalid. The exemption from nonresident tuition is mandatory. If a district finds that a student meets all the requirements of the law, nonresident tuition may not be charged.

In the event this decision is appealed, we will provide districts with periodic updates on the case as circumstances warrant. If you have questions concerning the case, you may contact Assistant General Counsel Ralph Black at (916) 327-5692 or rblack@cccco.edu

SB:RB:VAR:sj

cc: Marshall Drummond, Chancellor
Chancellor's Cabinet
Ron Owens, Public Information Officer