6 Cal.App.5th 574
Court of Appeal, Second District, Division 7, California.

Earl DE VRIES, Plaintiff and Appellant,
v.
REGENTS OF THE UNIVERSITY OF CALIFORNIA, Defendant and Respondent.

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Synopsis

Background: Taxpayer brought action against regents of state university for declaratory judgment challenging university policies making undocumented immigrants eligible for postsecondary education benefits. The Superior Court, Los Angeles County, No. BC555614, Elizabeth Allen White, J., sustained demurrer with leave to amend and then dismissed with prejudice after taxpayer failed to file an amended complaint. Taxpayer appealed.

The Court of Appeal, Segal, J., held that state statutes provided for the university's undocumented students' "eligibility" for educational benefits under Personal Responsibility and Work Opportunity Reconciliation Act.

Affirmed.

Procedural Posture(s): On Appeal; Demurrer.

****437** APPEAL from a judgment of the Superior Court of Los Angeles County, Elizabeth Allen White, Judge. Affirmed. (Los Angeles County Super. Ct. No. BC555614)

Attorneys and Law Firms

Judicial Watch, Inc., Sterling E. Norris, Los Angeles, and Chris Fedeli (admitted pro hac vice) for Plaintiff and Appellant.

Office of the General Counsel University of California, Charles F. Robinson, Redwood City, Karen J. Petrulakis and Margaret L. Wu, Oakland; Munger, Tolles & Olson, Bradley S. Phillips (Los Angeles) and Benjamin J. Horwich (San Francisco) for Defendant and Respondent.

SEGAL, J.

***578 INTRODUCTION**

Federal law makes undocumented immigrants ineligible for state and local public benefits, but allows a state to "affirmatively provide[ ] for such eligibility" through "the enactment of a State law." (8 U.S.C. § 1621(d).) The California Constitution generally gives the Regents of the University of California plenary authority to establish rules and policies to govern the internal affairs of the University of California. The issue in this appeal is ***579** whether three California legislative "enactments" affirmatively provide "eligibility" under federal law for postsecondary education benefits to qualified undocumented immigrants who attend the University of California, even though the statutes require only the California State University and California community colleges to provide such benefits. We conclude that, even though the California Constitution may preclude the Legislature from actually conferring postsecondary education benefits on undocumented immigrants attending the University of California, the Legislature has made these students "eligible" for such benefits within the meaning of the federal statute. Therefore, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In 1996 Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which, among many other things, made undocumented immigrants[1] ineligible for certain state and local ****438** public benefits, including benefits related to postsecondary education. (8 U.S.C. § 1621 (section 1621).) The same law, however, gives states authority to make undocumented immigrants "eligible for any State or local public benefit for which such [undocumented immigrant] would otherwise be ineligible under [section 1621] only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility." (*Id.*, § 1621(d) (section 1621(d)).)

The California Legislature subsequently enacted three laws addressing postsecondary education benefits for certain qualified undocumented immigrants. These laws include (1) Assembly Bill 540, which makes qualified undocumented immigrants eligible for exemption from

nonresident tuition (Stats. 2001, ch. 814, §§ 1-2, pp. 6652-6653); (2) Assembly Bill No. 131 ***580** (2011-2012 Reg. Sess.) (Assembly Bill 131), which makes qualified undocumented immigrants eligible for student financial aid programs (Stats. 2011, ch. 604, § 3); and (3) Senate Bill No. 1210 (2013-2014 Reg. Sess.) (Senate Bill 1210), which makes qualified undocumented immigrants eligible for student loan benefits (Stats. 2014, ch. 754, § 3).

The California Constitution limits the Legislature's power to regulate the University of California and the Regents of the University of California (the Regents),[2] which administers the University of California. (Cal. Const., art. IX, § 9, subd. (a).) Those limits traditionally extend to matters "involving internal university affairs," with a few exceptions. (*San Francisco Labor Council v. Regents of University of California* (1980) 26 Cal.3d 785, 789, 163 Cal.Rptr. 460, 608 P.2d 277 (*Labor Council*); *People v. Lofchie* (2014) 229 Cal.App.4th 240, 250, 176 Cal.Rptr.3d 579.)[3] Because of its constitutional autonomy, the Regents (rather than the Legislature) adopted three policies to provide the benefits identified in Assembly Bill 540, Assembly Bill 131, and Assembly Bill 1210 to qualified undocumented immigrant students attending the University of California. (The Regents of U.C., Policy 3106.1.C; Policy 3202.2; Policy 3202.3.)

Earl De Vries, a California taxpayer, filed this action against the Regents, alleging that none of its policies qualifies under section 1621(d) as a "State law" making undocumented immigrants eligible for postsecondary education benefits. De Vries further alleged that the Legislature has not enacted any statute that "affirmatively provid[es]" eligibility for the benefits the University of California now gives to undocumented immigrants, as required by section 1621(d). Indeed, De Vries alleged that the Legislature could never confer such eligibility because the Constitution prohibits the Legislature from regulating the University of California. De Vries sought to enjoin the Regents "from expending or causing the expenditure of taxpayer funds and taxpayer-financed resources to exempt unlawfully present aliens from paying nonresident supplemental tuition and to allow unlawfully present aliens to apply for and participate in state-administered financial aid programs."

The Regents demurred. It argued that the California Supreme Court's decision in *Martinez v. Regents of the University of California* (2010) 50 Cal.4th 1277, 117 Cal.Rptr.3d 359, 241 P.3d 855 (*Martinez*), ****439** which held the exemption in Assembly Bill 540 from nonresident tuition complies with the ***581** "affirmatively provides" requirement of section 1621(d), forecloses De Vries's current challenge, and that the analysis in *Martinez* applies equally to the financial aid program in Assembly Bill 131 and the student loan program in Assembly Bill 1210. Alternatively, the Regents argued that the laws enacting Assembly Bill 540, Assembly Bill 131, and Assembly Bill 1210 nevertheless satisfy the requirements of section 1621(d) with respect to the University of California students and, even if they did not, the policies of the Regents satisfy section 1621(d) because they have the force and effect of "state law." In opposition to the demurrer, De Vries argued that the Supreme Court in *Martinez* did not address the University of California's "unique, constitutionally independent status," nor did the Supreme Court determine "whether the Regents' resolution purportedly making Assembly Bill 540 applicable to [the University] satisfies Section 1621" because the parties in that case stipulated that Assembly Bill 540 applied to the University of California.

The trial court sustained the demurrer with leave to amend, concluding that the Regents' policies satisfy section 1621(d). The court cited California and United States Supreme Court authorities stating that " 'policies established by the Regents as matters of internal regulation may enjoy a status equivalent to that of state statutes.' " (See, e.g., *Hamilton v. Regents of the University of California* (1934) 293 U.S. 245, 258, 55 S.Ct. 197, 79 L.Ed. 343; *Kim v. Regents of University of California* (2000) 80 Cal.App.4th 160, 164–165, 95 Cal.Rptr.2d 10; *Regents of University of California v. City of Santa Monica* (1978) 77 Cal.App.3d 130, 135, 143 Cal.Rptr. 276.) Thus, the trial court ruled that the Regents's policies "adopting the exemption codified in AB540, the eligibility for state-administered financial aid programs codified in AB131 and eligibility for the student loan program codified in SB1210 would qualify as a 'State law ... which affirmatively provides for such eligibility' of State or local benefit for purposes of 8 U.S.C. § 1621(d)."

After De Vries failed to file an amended complaint, the trial court dismissed the action with prejudice and entered judgment for the Regents. De Vries timely appealed.

DISCUSSION

De Vries makes two principal arguments. First, he argues that the Legislature has not passed any statutes affirmatively providing eligibility for benefits to the University of California students who are undocumented immigrants. Second, he contends the trial court erred by concluding that the Regents's policies constitute "state laws" that comply with section 1621(d).

"On review from an order sustaining a demurrer, 'we

examine the complaint de novo to determine whether it alleges facts sufficient to state a cause ***582** of action under any legal theory, such facts being assumed true for this purpose.' " (*Committee for Green Foothills v. Santa Clara County Bd. of Supervisors* (2010) 48 Cal.4th 32, 42, 105 Cal.Rptr.3d 181, 224 P.3d 920; accord, *McCall v. PacifiCare of Cal., Inc.* (2001) 25 Cal.4th 412, 415, 106 Cal.Rptr.2d 271, 21 P.3d 1189.) We also review de novo questions of statutory construction. (*Lee v. Hanley* (2015) 61 Cal.4th 1225, 1232, 191 Cal.Rptr.3d 536, 354 P.3d 334; *Davis v. Fresno Unified School District* (2015) 237 Cal.App.4th 261, 275, 187 Cal.Rptr.3d 798.) " 'We affirm if any ground offered in support of the demurrer was well taken but find error if the plaintiff has stated a cause of action under any possible legal theory. [Citations.] We are not bound by the trial court's stated reasons, if any, supporting its ruling; we review the ruling, not its ****440** rationale.' " (*Walgreen Co. v. City and County of San Francisco* (2010) 185 Cal.App.4th 424, 433, 110 Cal.Rptr.3d 498; accord, *Acuna v. San Diego Gas & Electric Co.* (2013) 217 Cal.App.4th 1402, 1411, 159 Cal.Rptr.3d 749.)

A. *Statutory and Constitutional Framework*

1. *Title 8 United States Code Section 1621*

Congress enacted section 1621 as part of the Personal Responsibility and Work Opportunity Reconciliation Act. (Pub.L. No. 104-193 (Aug. 22, 1996) 110 Stat. 2105.) The Act has over 900 sections, including section 1621, which appears in a chapter entitled "Restricting Welfare and Public Benefits for Aliens."

Section 1621(a) provides: "Notwithstanding any other provision of law and except as provided in subsections (b) and (d), an alien who is not—[¶] (1) a qualified alien (as defined in section 1641 of this title),[4] [¶] (2) a nonimmigrant under the Immigration and Nationality Act [8 U.S.C. § 1101 et seq.], or [¶] (3) an alien who is paroled into the ***583** United States under section 212(d)(5) of such Act [8 U.S.C. § 1182(d)(5)] for less than one year, [¶] is not eligible for any State or local public benefit (as defined in subsection (c))." This case concerns undocumented immigrants who do not fall within any of the exempt categories of "aliens" listed in section 1621(a).

Section 1621(c) defines "State or local public benefit" to include, among other things, "any ... postsecondary education ... benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government." The parties do not dispute that the resident tuition exemption in Assembly Bill 540, the financial aid programs in Assembly Bill 131, and the student loan programs in Senate Bill 1210 are "State or local public benefits" within the meaning of section 1621(c).

Section 1621(d) states: "A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) *only through the enactment of a State law* after August 22, 1996, *which affirmatively provides for such eligibility*." (Italics added.) As noted, De Vries contends that neither Assembly Bill 540, nor Assembly Bill 131, nor Senate Bill 1210 "affirmatively provides for such eligibility" for the University of California students, and that policies the Regents adopted to implement Assembly Bill 540, Assembly Bill 131, and Senate Bill 1210 are not "enactments of State law" within the meaning of section 1621(d).

2. *The University's Status Under the California Constitution*

The University of California is a public trust established pursuant to ****441** article IX, section 9, of the California Constitution as follows: "(a) The University of California shall constitute a public trust, to be administered by the existing corporation known as 'The Regents of the University of California,' with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services." Article IX, section 9(f), further provides, in part: "The university shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs."

"The California Supreme Court has recognized that '[a]rticle IX, section 9, grants the regents broad powers to organize and govern the university and ***584** limits the Legislature's power to regulate either the university or the regents.' [Citation.] This constitutional grant of power to the Regents includes both quasi-judicial and quasi-legislative powers, according [the Regents] 'virtual autonomy in self-governance.' [Citation.] ' "The Regents have the general rule-making or policy-making power in regard to the University ... and are ... fully empowered with respect to the organization and government of the University." ' " (*People v. Lofchie, supra,* 229

Cal.App.4th at pp. 248–249, 176 Cal.Rptr.3d 579, fn. omitted, quoting *Regents of University of California v. Superior Court* (1970) 3 Cal.3d 529, 540, 91 Cal.Rptr. 57, 476 P.2d 457, and *Regents of University of California v. City of Santa Monica* (1978) 77 Cal.App.3d 130, 135, 143 Cal.Rptr. 276.)

As a result, "[t]he Regents may ... exercise quasi-legislative powers, subject to legislative regulation. Indeed, 'policies established by the Regents as matters of internal regulation may enjoy a status equivalent to that of state statutes.' " (*Campbell v. Regents of University of California* (2005) 35 Cal.4th 311, 320, 25 Cal.Rptr.3d 320, 106 P.3d 976, quoting *Regents of University of California v. City of Santa Monica*, *supra*, 77 Cal.App.3d at p. 135, 143 Cal.Rptr. 276; see, e.g., *Hamilton v. Regents of the University of California* (1934) 293 U.S. 245, 258, 55 S.Ct. 197 [a Regents order making military instruction compulsory "is a statute of the [s]tate within the meaning of [a statute establishing federal jurisdiction]"]; *Campbell v. Regents of University of California*, at p. 321, 25 Cal.Rptr.3d 320, 106 P.3d 976 [a Regents policy for handling whistleblower claims under its power to govern and organize the University is treated as a statute in order to determine whether the exhaustion doctrine applies]; see also *Lachtman v. Regents of University of California* (2007) 158 Cal.App.4th 187, 207, 70 Cal.Rptr.3d 147; *Kim v. Regents of University of California*, *supra*, 80 Cal.App.4th at p. 165, 95 Cal.Rptr.2d 10.)

In some circumstances, state legislation concerning matters outside those specifically enumerated in the Constitution may apply to the University of California. The Supreme Court has deemed some such laws "matters of statewide concern" and has considered whether the law in question "would infringe upon sovereign governmental powers." (*Regents of University of California v. Superior Court* (1976) 17 Cal.3d 533, 536, 131 Cal.Rptr. 228, 551 P.2d 844; see *Labor Council*, *supra*, 26 Cal.3d at p. 789, 163 Cal.Rptr. 460, 608 P.2d 277 ["legislation regulating public agency activity not generally applicable to the public may be made applicable to the ****442** university when the legislation regulates matters of statewide concern not involving internal university affairs"]; *Regents of University of California v. Superior Court*, at p. 536, 131 Cal.Rptr. 228, 551 P.2d 844.) Neither side argues that Assembly Bill 540, Assembly Bill 131, or Senate Bill 1210 addresses "matters of statewide concern."

***585** 3. *State Enactments Making Undocumented Immigrants Eligible for Postsecondary Education Benefits*

a. *Assembly Bill 540 and nonresident tuition*

Education Code section 68040 provides,[5] "Each student shall be classified as a resident or nonresident at the University of California, the California State University, or the California Maritime Academy or at a California community college." Section 68050 provides, "A student classified as a nonresident shall be required, except as otherwise provided in this part, to pay, in addition to other fees required by the institution, nonresident tuition." "Thus, nonresidents must generally pay nonresident tuition at public universities and colleges in California." (*Martinez*, *supra*, 50 Cal.4th at p. 1286, 117 Cal.Rptr.3d 359, 241 P.3d 855.)

In 2001 the Legislature enacted Assembly Bill 540. Section 1 of Assembly Bill 540 states in relevant part: "The people of the State of California do enact as follows: [¶] (a) The Legislature hereby finds and declares all of the following: [¶] (1) There are high school pupils who have attended elementary and secondary schools in this state for most of their lives and who are likely to remain, but are precluded from obtaining an affordable college education because they are required to pay nonresident tuition rates." (Some capitalization omitted; Stats. 2001, ch. 814, § 1 (a)(1), p. 6652.) Section 1, subdivision (a)(4), states: "This act ... allows all persons, including undocumented immigrant students who meet the requirements set forth in Section 68130.5 of the Education Code, to be exempt from nonresident tuition in California's colleges and universities." (Stats. 2001, ch. 814, § 1 (a)(4), p. 6652.)

Section 2 of Assembly Bill 540 added section 68130.5 to Part 41, article 11 of the Education Code. Section 68130.5, as amended, provides:

"(a) A student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of section 1101 of Title 8 of the United States Code, who meets all of the following requirements shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges:

"(1) Satisfaction of either of the following:

"(A) High school attendance in California for three or more years.

"(B) Attainment of credits earned in California from a California high school equivalent to three or more years of full-time high school coursework ***586** and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination

of those schools.

"(2) Graduation from a California high school or attainment of the equivalent thereof.

"(3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001-02 academic year.

"(4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an ****443** application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

"(b) A student exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.

"(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

"(d) Student information obtained in the implementation of this section is confidential."

Section 68134 is part of Part 41, Chapter 1, article 11 of the Education Code. Section 68134, which predates the enactment of Assembly Bill 540, provides: "No provision of this part shall be applicable to the University of California unless the Regents of the University of California, by resolution, make such provision applicable."

b. *Assembly Bill 131 and financial aid programs*
In 2011 the Legislature enacted Assembly Bill 131. (Stats. 2011, ch. 604.) The bill separately addressed financial aid programs administered by the University of California (commonly referred to as "UC Grants") and those administered by the State of California (commonly referred to as "Cal Grants"). Section 1 of Assembly Bill 131 added Education Code section 66021.6 regarding eligibility for the University of California Grants. It provides in relevant part: "Notwithstanding any other law, and except as provided for in subdivision (b), the Trustees of the California State University and the Board of Governors of the California Community Colleges shall, and ***587** the Regents of the University of California are requested to, establish procedures and forms that enable persons who are exempt from paying nonresident tuition under Section 68130.5, or who meet equivalent requirements adopted by the regents, to apply for, and participate in, all student aid programs administered by these [schools] to the full extent permitted by federal law. The Legislature finds and declares that this section is a state law within the meaning of Section 1621(d) of Title 8 of the United States Code."

Section 3 of Assembly Bill 131 added Education Code section 69508.5 regarding eligibility for Cal Grants. It provides in relevant part: "Notwithstanding any other law, and except as provided for in subdivision (c), a student who meets the requirements of subdivision (a) of Section 68130.5, or who meets equivalent requirements adopted by the Regents of the University of California, is eligible to apply for, and participate in, any student financial aid program administered by the State of California to the full extent permitted by federal law. The Legislature finds and declares that this section is a state law within the meaning of [section 1621(d)] of Title 8 of the United States Code."

c. *Senate Bill 1210 and student loan programs*
Most recently, in 2014, the Legislature enacted Senate Bill 1210 (referred to as the California DREAM Loan Act) to make undocumented immigrants eligible for certain student loan programs. (Stats. 2014, ch. 754.) Section 2 of Senate Bill 1210 states: "Since 2002, students have been exempt from paying nonresident tuition and fees at the California Community Colleges, the California State University, and the University of California pursuant to Section 68130.5. Commencing in 2011, these students were eligible for state financial aid or financial aid offered by these public institutions. Nevertheless, many of these students remain ineligible for federal student aid for reasons beyond their control. Lack of access to federal student loans ****444** presents a substantial barrier for these students to obtain a baccalaureate degree from the California State University or the University of California." (Stats. 2014, ch. 754, § 2 (b).) "The California DREAM Loan Act addresses this barrier by providing access to additional state aid so students may take full advantage of the educational opportunities offered at the California State University and the University of California." (Sen. Bill 1210, § 2, subd. (c).)

Section 3 of Senate Bill 1210 added several provisions to the Education Code, including sections 70032 and 70033. Section 70032, subdivision (i), defines "Participating institution" to include "any campus of the ... University of California that elects to participate in the DREAM Program pursuant to the requirements specified for a

qualifying institution." Section ***588** 70033, subdivision (a)(1), provides, "Commencing with the 2015-16 academic year, a student attending a participating institution may receive a loan under the DREAM Program if the student satisfies all of the following requirements," including that the "student is exempt from paying nonresident tuition under Section 68130.5, or meets equivalent requirements adopted by the Regents of the University of California."

4. *The Regents's Policies Making Undocumented Immigrants Eligible for Postsecondary Education Benefits*

The Regents adopts standing orders and policies for the University of California. (The Regents' policy 1000.) Following the Legislature's enactments of Assembly Bill 540, Assembly Bill 131, and Senate Bill 1210, the Regents adopted corresponding policies for the University of California students. Regents Policy 3106.1.C addresses nonresident tuition and provides: "The University of California shall exempt students from tuition and/or fees or waive tuition and/or fees, as set forth below.... [¶] [¶] ... as provided in [Education Code] Section 68130.5 (AB 540)." (The Regents' policy 3106.1.C.)

Regents Policy Nos. 3202.2 and 3202.3 address financial aid and student loan programs for students who qualify under Assembly Bill 540 for nonresident tuition. Policy 3202.2 provides in part: "The University of California shall extend financial aid to any student exempt from paying nonresident tuition under California Education Code Section 68130.5 and Regents Policy 3106 ...." (The Regents' policy 3202.2.) Policy Nos. 3202.2 and 3202.3 identify the statutory programs through which eligible students may receive financial aid and student loans, including the programs established under section 66021.6 and the California DREAM Loan Program. (The Regents' policies Nos. 3202.2, 3202.3.)

B. *Enactments and Eligibility Under Section 1621(d)*

As noted, section 1621(d) allows a state to make undocumented immigrants eligible for postsecondary education benefits "through the enactment of a State law ... which affirmatively provides for such eligibility." De Vries argues that Assembly Bill 540, Assembly Bill 131, and Senate Bill 1210 do not provide eligibility for the University of California students because those measures apply only to students of California State University and California community colleges. In so doing, De Vries suggests that the requirement of section 1621(d) that state laws provide "eligibility" for state or local public benefits means that such laws must actually confer benefits on qualified ***589** undocumented immigrants. De Vries further argues that, because the University of California's constitutional status precludes the Legislature from making the University of California students eligible for benefits under section 1621(d), no legislative enactment can ever comply with section 1621(d) with respect to the University of California students.

****445** The Regents contends that *Martinez* controls this case because the Supreme Court's opinion in *Martinez* "directly addressed and upheld the nonresident tuition exemption that [De Vries] challenges here." The Regents further contends that, because the legislative enactments making undocumented immigrants eligible for the financial aid and student loan programs De Vries challenges are "materially indistinguishable from the nonresident tuition exemption," *Martinez* dictates that those "parallel authorizations" also satisfy section 1621(d). In the alternative, the Regents argues that its policies are "state law" within the meaning of section 1621(d) and that, at a minimum, the acts of the Legislature in combination with Regents policies satisfy federal law.

1. *Martinez Is Not Controlling*

Preliminarily, we agree with De Vries that *Martinez* is not controlling. In *Martinez* the Supreme Court considered a challenge to Assembly Bill 540 under 8 United States Code section 1621 and another provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that prohibits undocumented immigrants from receiving postsecondary education benefits on the basis of their residence. (*Martinez, supra*, 50 Cal.4th at pp. 1284, 1294, 117 Cal.Rptr.3d 359, 241 P.3d 855; see 8 U.S.C. § 1623). With respect to section 1621, the plaintiffs alleged the defendants, including the Regents, the Board of Trustees of the California State University, the California Community Colleges, and officials representing those entities, unlawfully exempted undocumented immigrant students from nonresident tuition because Assembly Bill 540 did not "affirmatively provide" eligibility for that benefit. (*Martinez*, at p. 1294, 117 Cal.Rptr.3d 359, 241 P.3d 855.) The parties stipulated that "the Regents have, by resolution, made [Assembly Bill 540] applicable" to undocumented immigrants. (*Martinez*, at p. 1287, fn. 1, 117 Cal.Rptr.3d 359, 241 P.3d 855.)

The Supreme Court held that Assembly Bill 540 satisfies the requirement of section 1621(d) that a state law "affirmatively provides" eligibility for undocumented immigrants to receive State or local public benefits.[6] (*Martinez*, *supra*, 50 Cal.4th at p. 1295, 117 Cal.Rptr.3d 359, 241 P.3d 855.) The court, however, ***590** did not

define or interpret the term "eligibility." Moreover, unlike De Vries, the plaintiffs in *Martinez* did not argue that the Legislature could not make the University of California students eligible for public benefits because of the University of California's constitutional status. The Supreme Court in *Martinez* did not address that specific question in connection with Assembly Bill 540, and it did not decide that or any other issue in connection with Assembly Bill 131 or Senate Bill 1210. *Martinez*, therefore, does not control the outcome of this case.

2. *Assembly Bill 540, Assembly Bill 131, and Senate Bill 1210 Are "Enactments of State Law"*

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 does not define the phrase "enactment of a State law" in 8 United States Code section 1621(d). De Vries argues that these words require "an enactment of the state legislature," while the Regents argues that the phrase is broader and includes measures such as the quasi-legislative acts of the Regents. We need ****446** not decide whether the Regents's broader view is correct because, even under De Vries's narrower standard, Assembly Bill 540, Assembly Bill 131, and Senate Bill 1210 are "enactments of State law."

The Legislature enacted Assembly Bill 540, Assembly Bill 131, and Senate Bill 1210, and the Governor signed all three measures into law. (Stats. 2001, ch. 814 [approved by Governor Oct. 12, 2001]; Stats. 2011, ch. 604 [approved by Governor Oct. 8, 2011]; Stats. 2014, ch. 754 [approved by Governor Sept. 27, 2014].) Even under De Vries's theory, they qualify as enactments under section 1621(d), and De Vries does not contend otherwise. Indeed, each of the three measures contains the prefatory language, "The people of the State of California do enact as follows," confirming that it is an "enactment of a State law." (See *Branch v. Smith* (2003) 538 U.S. 254, 264, 123 S.Ct. 1429, 155 L.Ed.2d 407 ["[a]n 'enactment' is the product of legislation, not adjudication," citing the definition of "enact" in Webster's New Internat. Dict. (2d ed. 1949) p. 841 as " '[t]o make into an act or law; esp., to perform the legislative act with reference to (a bill) which gives it the validity of law' "]; see also *Grinzi v. San Diego Hospice Corp.* (2004) 120 Cal.App.4th 72, 86, 14 Cal.Rptr.3d 893 [an uncodified section of an act "is fully part of the law" and "must be read together with provisions of codes"].)

3. *The Meaning of "Eligibility" Under Section 1621(d)*

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 also does not define or interpret the word "eligibility" in section 1621(d). "When a term goes undefined in a statute, we give ***591** the term its ordinary meaning." (*Taniguchi v. Kan Pacific Saipan, Ltd.* (2012) 566 U.S. 560, 132 S.Ct. 1997, 2002, 182 L.Ed.2d 903 (*Taniguchi*); see *Crawford v. Metropolitan Government of Nashville and Davidson Cty.* (2009) 555 U.S. 271, 276, 129 S.Ct. 846, 172 L.Ed.2d 650 ["[t]he term 'oppose,' being left undefined by the statute, carries its ordinary meaning"]; *Hardt v. Reliance Standard Life Ins. Co.* (2010) 560 U.S. 242, 251, 130 S.Ct. 2149, 176 L.Ed.2d 998 [we assume that " 'the ordinary meaning of [a statute's] language accurately expresses the legislative purpose' "]; see also *People v. Barros* (2012) 209 Cal.App.4th 1581, 1593, 148 Cal.Rptr.3d 105 [using "[t]he plain meaning of the word 'proceeding' " where the phrase was "not defined in the statute"]; *Arnall v. Superior Court* (2010) 190 Cal.App.4th 360, 369, 118 Cal.Rptr.3d 379 ["we look first to the term's 'plain meaning' for guidance" when the statute does not define the term]; *In re Establiahment of Eureka Reporter* (2008) 165 Cal.App.4th 891, 897, 81 Cal.Rptr.3d 497 [turning to the "plain and commonsense meaning" of a term not defined in the statute].)

In divining a term's "ordinary meaning," courts regularly turn to general and legal dictionaries. (See, e.g., *Freeman v. Quicken Loans, Inc.* (2012) 566 U.S. 624, 132 S.Ct. 2034, 2041–2042, 182 L.Ed.2d 955; *Taniguchi*, *supra*, 566 U.S. 560, 132 S.Ct. at p. 2002; *Lopez v. Gonzales* (2006) 549 U.S. 47, 53–54, 127 S.Ct. 625, 166 L.Ed.2d 462; *MCI Telecommunications Corp. v. American Tel. & Tel. Co.* (1994) 512 U.S. 218, 225, 114 S.Ct. 2223, 129 L.Ed.2d 182 (*MCI Telecommunications*); see also *Outfitter Properties, LLC v. Wildlife Conservation Bd.* (2012) 207 Cal.App.4th 237, 244, 143 Cal.Rptr.3d 312 ["[w]e use the ordinary dictionary meaning of terms when terms are not defined in the statute"]; *County of Sacramento v. State Water Resources Control Bd.* (2007) 153 Cal.App.4th 1579, 1592, 64 Cal.Rptr.3d 302 [" '[a] dictionary is a proper source to determine the usual and ordinary meaning of ****447** a word or phrase in a statute' "]; *Stamm Theatres, Inc. v. Hartford Casualty Ins. Co.* (2001) 93 Cal.App.4th 531, 539, 113 Cal.Rptr.2d 300 [" 'courts ... turn to general dictionaries when they seek to ascertain the "ordinary" meaning of words used in a statute' "].) Merriam-Webster's Collegiate Dictionary defines "eligible" (the adjective form of the noun "eligibility") as "qualified to participate or be chosen." (Merriam-Webster's Collegiate Dict. (11th ed. 2014) p. 404; see American Heritage Dict. (2d college ed. 1985) p. 446 ["eligible" means "[q]ualified, as for an office or position"]; 5 Oxford English Dict. (2d ed. 1989) p. 140 ["eligibility" means "[f]itness to be chosen or preferred"].) Black's Law Dictionary similarly defines "eligible" as "[f]it and proper to be selected or to receive a benefit;

legally qualified for an office, privilege, or status." (Black's Law Dict. (10th ed. 2014) p. 634, col. 1; see also Ballentine's Law Dict. (3d ed. ***592** 1969) p. 396 ["eligibility" means "[f]itness for selection"].) Thus, the ordinary meaning of "eligibility" connotes qualification for a benefit, not entitlement to that benefit.[7]

Another provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 enacted at the same time as 8 United States Code section 1621 confirms this interpretation of the word "eligibility" as used in section 1621(d). (See *Taniguchi, supra*, 566 U.S. 560, 132 S.Ct. at pp. 2004–2005 [considered together, other provisions of the same act provide "strong contextual clue[s]" of a term's ordinary meaning]; *Dyna–Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1387, 241 Cal.Rptr. 67, 743 P.2d 1323 ["[t]he words of the statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible"]; *Sutter Health v. Superior Court* (2014) 227 Cal.App.4th 1546, 1555, 174 Cal.Rptr.3d 653 [looking to "the context and ordinary meaning" of a term "not defined in the statute"].) Section 1621 is contained in United States Code title 8, chapter 14, which consists of four subchapters. One subchapter includes a provision entitled "Statutory construction," which states: "Nothing in this chapter may be construed as an *entitlement* or a determination of an individual's *eligibility* or fulfillment of the requisite requirements for ****448** any Federal, State, or local governmental program, assistance, or benefits. For purposes of this chapter, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage." (8 U.S.C. § 1643(a)(1), italics added.)

***593** The juxtaposition of "entitlement" and "eligibility" makes clear that these words are not synonymous as they are used in title 8 United States Code section 1643(a)(1). Indeed, that provision indicates that "eligibility" is broader than "entitlement" and describes a person who may qualify to receive a benefit but has no legal right to it. (See *INS v. Cardoza–Fonseca* (1987) 480 U.S. 421, 444, 107 S.Ct. 1207, 94 L.Ed.2d 434 ["those who can only show a well-founded fear of persecution are not *entitled* to anything, but are *eligible* for the discretionary relief of asylum"]; *Jarecha v. Immigration and Naturalization Service* (5th Cir. 1969) 417 F.2d 220, 223 [as 8 U.S.C. § 1255 "is now construed, an applicant who meets the objective prerequisites is merely eligible for adjustment of status, he is in no way entitled to such relief"].) Because " ' "identical words used in different parts of the same act are intended to have the same meaning" ' " (Taniguchi, supra, 566 U.S. at p. 571 [132 S.Ct. at p. 2005]), we construe "eligibility" in section 1621(d) to mean "qualified to receive a benefit" as that term is used in title 8 United States Code section 1643(a)(1). (See *Taniguchi, supra*, 566 U.S. 560, 132 S.Ct. at pp. 2004–2005 ["interpreter" as used in 28 U.S.C. § 1920 has the same meaning as used in 28 U.S.C. § 1827]; accord, *Gustafson v. Alloyd Co.* (1995) 513 U.S. 561, 570, 115 S.Ct. 1061, 131 L.Ed.2d 1; *Department of Revenue of Ore. v. ACF Industries, Inc.* (1994) 510 U.S. 332, 342, 114 S.Ct. 843, 127 L.Ed.2d 165; see also *Gustafson v. Alloyd Co.*, at p. 568, 115 S.Ct. 1061 ["[a] term should be construed, if possible, to give it a consistent meaning throughout [an] Act"].)

De Vries suggests that section 1621(d) requires state laws to actually confer benefits on qualified undocumented immigrants. ~(AOB 15, 18; ARB 1)~ That is not what section 1621(d) says. Section 1621(d) requires only that state laws make undocumented immigrants "eligible" for public benefits.

C. *Assembly Bill 540, Assembly Bill 131, and Senate Bill 1210 Provide Eligibility for the University of California Students To Receive Postsecondary Education Benefits*

In construing a statute, " ' "our fundamental task is 'to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute.' ... We begin by examining the statutory language because it generally is the most reliable indicator of legislative intent. We give the language its usual and ordinary meaning, and '[i]f there is no ambiguity, then we presume the lawmakers meant what they said, and the plain meaning of the language governs.' ... If, however, the statutory language is ambiguous, 'we may resort to extrinsic sources, including the ostensible objects to be achieved and the legislative history.' " ' " (*Lee v. Hanley, supra*, 61 Cal.4th at pp. 1232–1233, 191 Cal.Rptr.3d 536, 354 P.3d 334; accord, *Committee for Green Foothills v. Santa Clara County Bd. of Supervisors, supra*, 48 Cal.4th at p. 45, 105 Cal.Rptr.3d 181, 224 P.3d 920; ***594** *Mays v. City of Los Angeles* (2008) 43 Cal.4th 313, 321, 74 Cal.Rptr.3d 891, 180 P.3d 935.) Extrinsic sources include " 'the statutory scheme, the apparent purposes underlying the statute and the presence (or absence) of instructive legislative history.' " (*County of San Diego v. Alcoholic Beverage Control Appeals Bd.* (2010) 184 Cal.App.4th 396, 401, 109 Cal.Rptr.3d 59; see *Mt. Hawley Ins. Co. v. Lopez* (2013) 215 Cal.App.4th 1385, 1400, 156 Cal.Rptr.3d 771 (*Mt. Hawley*).) " ' "Ultimately we choose the construction that comports ****449** most closely with the apparent intent of the lawmakers, with a view to promoting rather than defeating the general purpose of the statute." ' " (*Lee v. Hanley*, at p. 1233, 191 Cal.Rptr.3d 536, 354 P.3d 334;

accord, *Mays v. City of Los Angeles*, at p. 321, 74 Cal.Rptr.3d 891, 180 P.3d 935.)

1. *Assembly Bill 540*

a. *The language of Assembly Bill 540 is unambiguous*
A statute's language is ambiguous when it is subject to more than one reasonable interpretation. (See *Bruns v. E–Commerce Exchange, Inc.* (2011) 51 Cal.4th 717, 724, 122 Cal.Rptr.3d 331, 248 P.3d 1185; *Jones v. Lodge at Torrey Pines Partnership* (2008) 42 Cal.4th 1158, 1162–1163, 72 Cal.Rptr.3d 624, 177 P.3d 232; *Coalition of Concerned Communities, Inc. v. City of Los Angeles* (2004) 34 Cal.4th 733, 737, 21 Cal.Rptr.3d 676, 101 P.3d 563.) Here, the language of Assembly Bill 540 broadly applies to make "all persons" attending any "accredited institution of higher education in California" eligible for an "exemption from nonresident tuition," "including undocumented immigrant students who meet the requirements set forth in Section 68130.5." (See *Martinez*, 50 Cal.4th at p. 1295, 117 Cal.Rptr.3d 359, 241 P.3d 855.) "All persons" means all persons, including the University of California students. Nothing in Assembly Bill 540, including the requirements set forth in section 68130.5, can be reasonably interpreted to limit or restrict the University of California students from eligibility for the exemption from nonresident tuition. The language is unambiguous.

De Vries contends that Assembly Bill 540 does not make the University of California students eligible for the exemption from nonresident tuition because it does not "apply to" the University of California. In support of his argument, De Vries cites section 68134, which states: "No provision of this part shall be applicable to the University of California unless the Regents of the University of California, by resolution, make such provision applicable." De Vries notes that the Supreme Court in *Martinez* cited section 68134 in observing that, "[b]y its terms, [Assembly Bill 540] applies only to the California State University and California Community Colleges, and not to the University of California." (*Martinez*, *supra*, 50 Cal.4th at p. 1287, fn. 1, 117 Cal.Rptr.3d 359, 241 P.3d 855.)

Section 68134, however, does not negate the University of California students' eligibility for the exemption from nonresident tuition under Assembly Bill 540, nor does it ***595** render the language of Assembly Bill 540 ambiguous. As the Regents argued in its demurrer, Assembly Bill 540 makes all qualified students *eligible* for the exemption from nonresident tuition. Pursuant to section 68134, the University of California students are not *entitled* to that benefit unless the University of California elects to provide it. Indeed, section 68134 and the Supreme Court's reference to that statute in *Martinez* address whether Assembly Bill 540 "applies to" the University of California, not whether it "applies to" the University of California students or makes them "eligible" for certain benefits. Whether A.B. 540 "applies to" the University of California is not relevant to whether Assembly Bill 540 makes the University of California students eligible for the exemption from nonresident tuition. As noted, section 1621(d) requires only that state law provide eligibility for undocumented immigrants to receive public benefits. It does not require that state law confer such benefits on eligible persons or mandate that any other entity do so.

De Vries also argues that, because section 68130.5, subdivision (a), which provides that qualified undocumented immigrants "shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges," makes no mention of ****450** the University of California, Assembly Bill 540 must exclude the University of California students from eligibility for the exemption from nonresident tuition. The absence of language in section 68130.5 referring to the University of California, however, does not eliminate the University of California students from eligibility for that benefit. Section 68130.5, subdivision (a), merely requires California State University and California community colleges to exempt their qualifying students from paying nonresident tuition. (See § 68130.5, subd. (c) ["[t]he Board of Governors of the California Community Colleges and the Trustees of the California State University *shall* prescribe rules and regulations for the implementation of this section," italics added].) It may be, as De Vries argues, that Assembly Bill 540 (and Assem. Bill 131 and Sen. Bill 1210) "cannot require the Regents to provide eligibility" for the University of California students. But section 1621(d) does not place that burden on the Legislature. It only requires that the Legislature provide "eligibility" for public benefits, which the Legislature has done through Assembly Bill 540.

In re Garcia, *supra*, 58 Cal.4th 440, 165 Cal.Rptr.3d 855, 315 P.3d 117 presented an analogous, though not identical, scenario. That case involved a state statute making undocumented immigrants eligible for membership in the State Bar. Although the California Constitution gives the Supreme Court "ultimate authority" for establishing policies relating to admission to the Bar,[8] the Legislature enacted Business and Professions Code section 6064, subdivision (b), which provides that "the ***596** Supreme Court *may admit* [an] applicant [who is not lawfully present in the United States] as an attorney at law in all

the courts of this state and *may direct* an order to be entered upon its records to that effect." (*Garcia*, at p. 451, fn. 9, 165 Cal.Rptr.3d 855, 315 P.3d 117, italics added.) *Garcia* held that Business and Professions Code section 6064 satisfied the requirements of 8 United States Code section 1621(d) because the former section "explicitly authoriz[es] a bar applicant 'who is not lawfully present in the United States' to obtain a law license." (*Garcia*, at p. 458, 165 Cal.Rptr.3d 855, 315 P.3d 117.)

Business and Professions Code section 6064, however, merely made undocumented immigrants eligible for admission to the Bar. The Supreme Court retained authority to confer or deny membership "as a matter of state law" or for reasons specific to the applicant. (*Garcia*, *supra*, 58 Cal.4th at p. 459, 165 Cal.Rptr.3d 855, 315 P.3d 117 italics omitted.) Thus, Business and Professions Code section 6064 "remov[ed] any federal statutory barrier" to admitting undocumented immigrants to the State Bar, and the Supreme Court ultimately conferred that benefit on qualified applicants. (*Ibid.*)

Similarly, Assembly Bill 540 removed the federal barrier to making undocumented immigrants eligible for the exemption from nonresident tuition, and the Regents conferred that benefit on qualified the University of California students. Nothing in section 1621(d), California's Constitution, or Assembly Bill 540 requires more. In short, legislative deference to the University's constitutional status does not affect the Legislature's express intent to make the University of California students eligible for the exemption ****451** from nonresident tuition. De Vries's suggestion that Assembly Bill 540 does not provide "eligibility" for the University of California students within the meaning of that term under section 1621(d) is not reasonable and does not cast doubt on the clarity of Assembly Bill 540. (See *Coalition of Concerned Communities, Inc. v. City of Los Angeles*, *supra*, 34 Cal.4th at p. 737, 21 Cal.Rptr.3d 676, 101 P.3d 563 [language is unambiguous unless it is subject to more than one "reasonable interpretation"].)

b. *The legislative history of Assembly Bill 540 confirms that the University of California students are eligible for the exemption from nonresident tuition*

Although it is not necessary to look to legislative history and other extrinsic sources because Assembly Bill 540 is unambiguous, the legislative history and subsequent legislative enactments confirm our interpretation. (See *Goodman v. Lozano* (2010) 47 Cal.4th 1327, 1335, 104 Cal.Rptr.3d 219, 223 P.3d 77 [although the meaning of language in a statute "is plain, it is helpful to look at [the statute's] legislative history"]; *Hughes v. Pair* (2009) 46 Cal.4th 1035, 1046, 95 Cal.Rptr.3d 636, 209 P.3d 963 ["we [may] look to legislative history to confirm our plain-meaning construction of statutory ***597** language"]; *Kulshrestha v. First Union Commercial Corp.* (2004) 33 Cal.4th 601, 613, fn. 7, 15 Cal.Rptr.3d 793, 93 P.3d 386 ["courts may always test their construction of disputed statutory language against extrinsic aids bearing on the drafters' intent"]; *United Health Centers of San Joaquin Valley, Inc. v. Superior Court* (2014) 229 Cal.App.4th 63, 79, 177 Cal.Rptr.3d 214 [" '[r]eviewing courts may turn to the legislative history behind even unambiguous statutes when it confirms or bolsters their interpretation' "].) "We look to the Legislative Counsel's digest and other summaries and reports indicating the Legislature's intent." (*Mt. Hawley*, *supra*, 215 Cal.App.4th at p. 1401, 156 Cal.Rptr.3d 771; see *Committee for Green Foothills v. Santa Clara County Bd. of Supervisors*, *supra*, 48 Cal.4th at p. 56, fn. 15, 105 Cal.Rptr.3d 181, 224 P.3d 920 [" '[w]e have routinely found enrolled bill reports, prepared by a responsible agency contemporaneous with passage and before signing, instructive on matters of legislative intent' "]; *Valley Vista Services, Inc. v. City of Monterey Park* (2004) 118 Cal.App.4th 881, 889, 13 Cal.Rptr.3d 433 ["[w]hen construing a statute, we may consider its legislative history, including committee and bill reports, and other legislative records"].)

Several enrolled bill reports for Assembly Bill 540 refer repeatedly to tuition and "eligibility" rates for the University of California students in assessing the impact of Assembly Bill 540 on the state and its student population. For example, the Enrolled Bill Report of the Office of the Secretary of Education notes that the estimated percentage of the student population "who may qualify for a nonresident tuition exemption under provisions of [the] bill ... is less than 1% of the total student population at the three public higher education institutions, the UC, the CSU [California State University], and the CCC [California community colleges]." (Off. of Secretary of Education, Enrolled Bill Rep. on Assem. Bill. 540 (2001-2002 Reg. Sess.) Oct. 3, 2001, p. 5.) The Enrolled Bill Report goes on to state, "The UC and the CSU estimate minor, absorbable costs based on the low number of students who would qualify for a nonresident tuition exemption under the provisions of this bill." (*Id.* at p. 6; see also Dept. of Finance, Enrolled Bill Rep. on Assem. Bill 540 (2001-2002 Reg. Sess.) Oct. 10, 2001, pp. 2-3; Dept. of Finance, Enrolled Bill Rep. on Assem. Bill 540 (2001-2002 Reg. Sess.) July 3, 2001, pp. 1-3; Assem. Republican Bill Analysis, Higher Education Com., Enrolled Bill Rep. on Assem. Bill 540 (2001-2002 Reg. Sess.) ****452** Sept. 13, 2001, p. 2.) If Assembly Bill 540 did not provide eligibility for the

University of California students to benefit from the nonresident tuition exemption, there would be no need for the Legislature to consider the impact of Assembly Bill 540 on the University of California and its students.

De Vries argues that a sentence in the Legislative Counsel's Digest of Assembly Bill 540 supports his contention that Assembly Bill 540 provides eligibility only to students of California State University and California community colleges. He points to language stating, "These provisions are applicable to the University of California only if the Regents of the University ***598** of California act to make them applicable." (Legis. Counsel's Dig., Assem. Bill 540 (2001-2002 Reg. Sess.) 5 Stats. 2001 Summary Dig., p. 385.) As discussed with respect to the almost identical language in section 68134, however, the fact that Assembly Bill 540 does not "apply to" the University of California does not affect the University of California students' "eligibility" for the nonresident tuition exemption.

Moreover, the sentence De Vries cites from the Legislative Counsel's Digest refers not to Assembly Bill 540, but to language in section 68062, described by the Legislative Counsel's Digest as "existing law," which provided that an "alien" may establish "residence" in California unless precluded by federal law. (§ 68062, subd. (h).) In *Regents of University of California v. Superior Court* (1990) 225 Cal.App.3d 972, 276 Cal.Rptr. 197 (*Regents v. Superior Court*) the court held that federal law prohibited California colleges and universities (including the University of California) from classifying undocumented immigrants as "residents" under section 68062. (*Id.* at p. 980, 276 Cal.Rptr. 197.) The court in that case acknowledged that section 68134 made section 68062 applicable to the University of California "only to the extent its Regents adopt it" (*Regents v. Superior Court*, *supra*, at p. 976, fn.1, 276 Cal.Rptr. 197), meaning that the Regents could, but was not required to, classify qualified "aliens" as "residents" under section 68062. Assembly Bill 540 now allows California colleges and universities to make undocumented immigrants eligible for the exemption from nonresident tuition based on factors other than their "residence," thus complying with federal law. (*Martinez*, *supra*, 50 Cal.4th at p. 1290, 117 Cal.Rptr.3d 359, 241 P.3d 855; see 8 U.S.C. § 1623 [prohibiting "an alien who is not lawfully present in the United States" from eligibility for postsecondary education benefits "on the basis of residence"].) As was the case with section 68062, section 68134 allows the Regents to adopt the nonresident tuition exemption provided by Assembly Bill 540 if it chooses to do so.

We assume the Legislature knew of section 68134 and its effect on other provisions of the Education Code when the Legislature enacted section 2 of Assembly Bill 540, which added section 68130.5. (See *People v. Scott* (2014) 58 Cal.4th 1415, 1424, 171 Cal.Rptr.3d 638, 324 P.3d 827 ["the Legislature ' "is deemed to be aware of statutes and judicial decisions already in existence, and to have enacted or amended a statute in light thereof" ' "].) We also assume the Legislature intended section 68134 to have the same effect on section 68130.5 that it had on section 68062. (See *People v. Scott*, at p. 1424, 171 Cal.Rptr.3d 638, 324 P.3d 827 ["[c]ourts may assume ... that the Legislature intended to maintain a consistent body of rules and to adopt the meaning of statutory terms already construed"].) That effect is to acknowledge the University of California's special status under the ***599** California Constitution and to allow the University to decide whether to confer on its students the benefits for ****453** which they are eligible under state law.[9]

Finally, Senate Bill 1210, which the Legislature enacted in 2014, acknowledges that A.B. 540 applies to the University of California students even if it does not apply to the university. Senate Bill 1210 states, "Since 2002, students have been exempt from paying nonresident tuition and fees at the California Community Colleges, the California State University, and the University of California pursuant to Section 68130.5."[10] (Stats. 2014, ch. 754, § 2 (b).) While not binding, " 'a declaration of a later Legislature as to what an earlier Legislature intended is entitled to consideration.' " (*Carter v. California Dept. of Veterans Affairs* (2006) 38 Cal.4th 914, 922, 44 Cal.Rptr.3d 223, 135 P.3d 637; see *People ex rel. Lockyer v. R.J. Reynolds Tobacco Co.* (2005) 37 Cal.4th 707, 724, 36 Cal.Rptr.3d 814, 124 P.3d 408 [" '[w]hile "subsequent legislation interpreting [a] statute ... [cannot] change the meaning [of the earlier enactment,] it [does supply] an indication of the legislative intent which may be considered together with other factors in arriving at the true intent existing at the time the legislation was enacted" ' "].) Here, Senate Bill 1210 confirms that Assembly Bill 540 makes the University of California students eligible for the nonresident tuition exemption.

2. *Assembly Bill 131 and Senate Bill 1210*

Assembly Bill 131 and Senate Bill 1210, like Assembly Bill 540, make undocumented immigrants attending the University of California eligible for financial aid and student loan programs and rely on the Regents to confer these benefits on qualified students. The language of Assembly Bill 131 and Senate Bill 1210, like the language of Assembly Bill 540, does not exclude from eligibility any qualified students on the basis of the institution they attend. Indeed, by specifically referencing

the University of California and its students, those measures provide eligibility for the specified benefits to those students, regardless of whether the University ultimately confers such benefits on them.

For example, section 3 of Assembly Bill 131, which added section 69508.5, addresses eligibility for Cal Grants and states that "a student who ***600** meets the requirements of subdivision (a) of Section 68130.5, or who meets equivalent requirements adopted by the Regents of the University of California, is eligible to apply for, and participate in, any student financial aid program administered by the State of California to the full extent permitted by federal law." (§ 69508.5, subd. (a).) The plain language of this provision makes clear that the University of California students are eligible to participate in the Cal Grant program.[11] Section 1 of Assembly Bill 131, which added section 66021.6, applies to UC Grants and states that "the Regents of the University of California are requested to ... establish procedures and forms that enable persons ****454** who are exempt from paying nonresident tuition under Section 68130.5, or who meet equivalent requirements adopted by the [R]egents, to apply for, and participate in, all student aid programs administered by these [schools] to the full extent permitted by federal law." (§ 66021.6, subd. (a).) Thus, section 1 of Assembly Bill 131 makes undocumented the University of California students eligible to participate in the UC Grant program.

De Vries argues that the reference in Assembly Bill 131 to "requirements adopted by the Regents of the University of California" means that "its terms do not apply to UC students." Putting aside the fact that the Regents is not involved in the Cal Grants program, De Vries's argument lacks merit. Section 1621(d) does not require an enactment of state law to specify the terms under which eligible beneficiaries may receive certain benefits. Section 1621(d) merely requires the enactment of state law to make undocumented immigrants eligible for those benefits, and Assembly Bill 131 satisfies that requirement, regardless of whether, as De Vries argues, the University of California students' eligibility for UC Grants requires them to meet certain conditions adopted by the Regents.

In terms even plainer than Assembly Bill 540 and Assembly Bill 131, Senate Bill 1210 provides eligibility to qualified the University of California students to benefit from certain student loan programs. Section 3 of Senate Bill 1210, which added section 70033, subdivision (a)(1), states: "Commencing with the 2015-16 academic year, a student attending a *participating institution* may receive a loan under the DREAM Program if the student satisfies all of the following requirements: [¶] (1) The student is exempt from paying nonresident tuition under Section 68130.5, or meets equivalent requirements adopted by the Regents of the University of California." A " '[p]articipating institution' " is defined as "any campus of the ... University of California that elects to participate in the DREAM Program pursuant to the requirements specified for a qualifying institution...." (§ 70032, subd. (i).) Thus, the University of California students are eligible to participate in the DREAM Program established by Senate Bill 1210.

***601 DISPOSITION**

The judgment is affirmed. The Regents is to recover its costs on appeal.

Perluss, P.J., and Keeny, J.,* concurred.

All Citations

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Footnotes

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

1 The Personal Responsibility and Work Opportunity Reconciliation Act refers to undocumented immigrants as "alien[s]" who are not qualified for public benefits under various federal laws. (See 8 U.S.C. § 1621(a).) We use the term "undocumented immigrant" to refer to "a non-United States citizen who is in the United States but who lacks the immigration status required by federal law to be lawfully present in this country and who has not been admitted on a temporary basis as a nonimmigrant" (*In re Garcia* (2014) 58 Cal.4th 440, 446, fn. 1, 165 Cal.Rptr.3d 855, 315 P.3d 117), which encompasses the category of persons referred to as unqualified "aliens" in title 8 United States Code section 1621. Assembly Bill No. 540 (A.B. 540), one of the California statutes at issue in this case, used both "undocumented immigrant" and "nonimmigrant alien" to refer to the same class of people. (See Stats. 2001, ch. 814, §§ 1, subd. (a)(4), 2, subd. (a).) The current version of Education Code section 68130.5, which

A.B. 540 added, refers to the same class of people as "nonimmigrant foreign national[s] within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code." (Educ. Code, § 68130.5, subd. (a).)

2 We refer to "the Regents" in the singular because the California Constitution created a "corporation known as 'The Regents of the University of California,' " a singular noun. (Cal. Const., art. IX, § 9, subd. (a).) Some decisions, statutes, and legislative materials we quote in this opinion refer to "the Regents" as a plural noun.

3 Neither party contends that any of these exceptions apply here.

4 Title 8 United States Code section 1641 defines the term "qualified alien" as "(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. § 1101 et seq.], [¶] (2) an alien who is granted asylum under section 208 of such Act [8 U.S.C. § 1158], [¶] (3) a refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. § 1157], [¶] (4) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. § 1182(d)(5)] for a period of at least 1 year, [¶] (5) an alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. § 1253] ... or section 241(b)(3) of such Act [8 U.S.C. § 1251(b)(3)] ..., [¶] (6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. § 1153(a)(7)] as in effect prior to April 1, 1980; or [¶] (7) an alien who is a Cuban [or] Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980)." (Fn. omitted.)

5 Statutory references are to the Education Code unless otherwise indicated.

6 The Supreme Court in *Martinez* also held that a state statute does not comply with section 1621(d) unless it " 'expressly state[s] that it applies to undocumented aliens, rather than conferring a benefit generally without specifying that its beneficiaries may include undocumented aliens.' " (*Martinez*, *supra*, 50 Cal.4th at p. 1296, 117 Cal.Rptr.3d 359, 241 P.3d 855; see *Garcia*, *supra*, 58 Cal.4th at p. 458, 165 Cal.Rptr.3d 855, 315 P.3d 117.) De Vries does not argue that either A.B. 131 or S.B. 1210 fails to comply with this standard; indeed, he appears to concede that each statute does comply.

7 Webster's New International Dictionary and its abridged version published as Webster's New Collegiate Dictionary include "entitled" among several meanings of "eligible," including "qualified to be chosen" and "permitted under football rules to catch a forward pass." (Webster's Third New International Dictionary (2002) p. 736; Webster's Ninth New Collegiate Dict. (1984) p. 404; see *MCI Telecommunications*, *supra*, 512 U.S. at p. 226, fn. 2, 114 S.Ct. 2223 ["Webster's New Collegiate Dictionaries ... are essentially abridgments of that company's Webster's New International Dictionaries"].) "That a definition is broad enough to encompass one sense of a word does not establish that the word is *ordinarily* understood in that sense." (*Taniguchi*, *supra*, U.S. at p. ——, 132 S.Ct. at p. 2003; see *Mallard v. United States Dist. Court for Southern Dist. of Iowa* (1989) 490 U.S. 296, 301, 109 S.Ct. 1814, 104 L.Ed.2d 318 [relying on the "most common meaning" and the "ordinary and natural signification" of the word "request," even though it may sometimes "double for 'demand' or 'command' "].) No other common or legal dictionary we consulted defines "eligible" as "entitled." (See *Taniguchi*, *supra*, 566 U.S. 560, 132 S.Ct. at p. 2004 ["[b]ased on our survey of the relevant dictionaries, we conclude that the ordinary or common meaning of 'interpreter' does not include those who translate writings [as suggested by Webster's Third]"].) Thus, we reject the definition of "eligible" in Webster's Third New International and New Collegiate Dictionaries as including "entitled." (See *ibid*.; *MCI Telecommunications*, at p. 227, 114 S.Ct. 2223 [rejecting the suggested meaning of a word in one dictionary and its progeny where that definition "contradicts one of the meanings contained in virtually all other dictionaries," italics omitted].)

8 *Garcia* explained: "Although both the Legislature and this court possess the authority to establish rules regulating admission to the State Bar, under the California Constitution this court bears the ultimate responsibility and authority for determining the issue of admission." (*Garcia*, 58 Cal.4th at p. 451, 165 Cal.Rptr.3d 855, 315 P.3d 117; see *id*. at p. 452, fn. 11, 165 Cal.Rptr.3d 855, 315 P.3d 117.) Thus, the Legislature arguably exercises more authority over policies affecting admission to the State Bar than it does over policies affecting tuition rates at the University.

9 Other Education Code statutes follow a similar pattern. For example, section 68075.5, subdivision (a), exempts certain members of the Armed Forces stationed in California from paying nonresident tuition at the California State University and California community colleges. Even though that provision does not reference the University of California, another subdivision of section 68075.5, subdivision (c), asks the University of California to adopt policies regarding tuition rates for eligible veterans that conform to the requirements of section 68075.5, subdivision (a). Thus, through section 68075.5, subdivision (c), the Legislature intended to make veterans attending a UC school eligible for the benefit of in-state tuition.

10 The same provision also acknowledges that A.B. 131 makes UC students "eligible for state financial aid or financial aid offered by [that] public institution." (Stats. 2014, ch. 754, § 2, subd. (b).)

11 The Regents notes that it plays no role in conferring Cal Grants on any students, including UC students.

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