

Federal Financial Aid for College Available for Some Immigrant Survivors of Domestic Violence

Immigrants who are not citizens or legal permanent residents (LPR) and are domestic violence survivors now face one less barrier to achieving higher education. In August 2008 the U.S. Department of Education determined that “qualified” battered immigrant students and their children were eligible for financial aid under the same rules that applied to citizens and other eligible immigrants. More recently the Education Department released a “Dear Colleague” letter that describes and clarifies how an immigrant who is a survivor of domestic violence can qualify for federal financial aid. The [National Immigration Law Center](#), [Legal Aid Foundation of Los Angeles](#), and [Legal Momentum](#) have been at the table with the Education Department for over two years discussing and advocating clarity and guidance for this rule change on behalf of immigrant domestic violence survivors.

The “Dear Colleague” letter, released in June 2010 and entitled “[Student Aid Eligibility—Eligibility for Title IV Aid for ‘Battered Immigrants—Qualified Aliens’ as provided for in the Violence Against Women Act,](#)” addresses the procedures under which qualified immigrant domestic violence survivors, with the correct documentation, can qualify for Title IV, Higher Education Act, assistance due to the [Violence Against Women Act \(VAWA\)](#). The letter formalizes the policy that has been in effect since 2008 but was not officially publicized to financial aid officers or the public. Financial aid staff and education advocates can now assist immigrant domestic violence survivors applying for financial aid.

Generally, when a U.S. citizen or LPR marries an immigrant and wishes to bring his or her spouse to the United States, the citizen or LPR spouse submits a petition to the U.S. Department of Homeland Security’s [United States Citizenship and Immigration Service \(USCIS\)](#) office so that the immigrant spouse may legally reside in the United States. However, in the case of domestic violence, too often an abusive citizen or LPR spouse uses his or her ability to control the immigration status of the survivor as another method of abuse. Immigrants who are spouses of U.S. citizens or spouses of LPRs, and who are survivors of domestic violence, as determined by USCIS, may be deemed “qualified aliens”; under VAWA this makes them and their designated children eligible for federal public benefits, including federal student financial aid. Instead of depending upon the abusive spouse to apply for the survivor’s immigration status, a survivor can apply on his or her own behalf and on behalf of his or her children under VAWA. The abusive spouse plays no role in the application and does not have to know that the survivor is applying. In fact, VAWA is clear in prohibiting USCIS from informing an applicant’s spouse that a survivor has applied for a VAWA self-petition.

Because of additional confidentiality concerns, the abused spouse’s VAWA status is not maintained in the Department of Homeland Security system, which is used to confirm immigration status for the Education Department when the abused spouse is applying for financial aid. Consequently there

are a few more steps in submitting documentation directly to the financial aid officer. In order for a noncitizen who is a domestic violence survivor to be eligible for financial aid, he or she must have appropriate documentation to qualify. Any of the following three types of documents is appropriate:

- 1) [I-360 self-petition](#)—that either is approved or establishes a prima facie case—for status as a Battered Immigrant–Qualified Alien under VAWA;
- 2) An approved application for suspension of deportation or withholding of removal under VAWA;
or
- 3) Cancellation of a removal case under VAWA.

Financial aid is now available to many immigrant women who are domestic violence survivors and who otherwise could not pursue higher education because of financial barriers. Determining immigrant domestic violence survivors to be eligible for financial aid is a critical step toward ensuring equal access to postsecondary education, increasing our skilled workforce, and opening opportunities for economic advancement.

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