Legal Questions About the College Bound Scholarship

College Bound Scholarship Workgroup
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What state obligations arise from the College Bound program?

- Legal questions to consider during policy discussion.
- Does the CB program create enforceable rights to a scholarship for:
  - Students currently receiving benefits?
  - Students who have signed pledges but are not yet receiving benefits?
- Statutory analysis: Legislature may enact statutory entitlements, and legislature can change.
- Contract analysis: Legislature may not enact statutes that unconstitutionally impair contract rights.

Do students have a statutory right to benefits?

- Statutes: Legislature may create statutory entitlements.
  - Enforceable right to benefits.
- Legislature often uses phrases like "subject to appropriation" to limit entitlement to services.
- College Bound statute says that deposits to the Educational Trust Fund to support the program are subject to appropriation.
- Statute also says scholarships "shall be awarded to eligible students."

Do students have a contractual right to benefits?

- Ordinarily, legislature writes laws, not contracts.
- Sometimes, statutes or agency actions can create contract rights.
  - Difference between a contract and a gratuity.
- Contract rights may be protected by the prohibition on impairment of contracts.
- Agency promises:
  - What if the agency promises more than it was authorized to do?
  - What if benefits defined in WAC go farther than the statute?

Can the state change the CB program?

- Statutory rights: Yes.
  - Statutory rights may be changed in statute.
  - In general, no one has a right to have a statute continue.
- Contract rights: Maybe.
  - Contract rights may limit legislature's ability to enact laws that impair state's contracts.
  - Even if contractual rights exist, not every change is a prohibited impairment.
  - Can change for new entrants.