

# Basic Facts About In-State Tuition for Undocumented Immigrant Students

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## Background

At least twenty-four states and the District of Columbia have “tuition equity” laws or policies that permit certain students who have attended and graduated from secondary schools in their state to pay the same tuition as their “in-state” classmates at their state’s public institutions of higher education, regardless of their immigration status. The states are Arizona, California, Colorado, Connecticut, Florida, Hawaii, Illinois, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, New Jersey, New Mexico, New York, Oklahoma, Oregon, Rhode Island, Texas, Utah, Virginia, and Washington. The University of Michigan’s Board of Regents adopted a similar policy for its campuses.

At least 15 states, including California, Colorado, Illinois, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oklahoma, Oregon, Texas, Virginia, Washington, and the District of Columbia, offer state financial aid to students who meet certain criteria, regardless of their immigration status. California, Connecticut, Minnesota, and Utah allow public universities to offer private institutional aid or scholarships to students who pay in-state rates or graduate from their high schools, regardless of their immigration status. Utah established the Access Utah Promise Scholarship, which consolidates various scholarship programs. The University of Hawaii also offers financial assistance to eligible students, regardless of their immigration status.

About 84 percent of the nation’s foreign-born population live in states with tuition equity laws or policies, and other states are considering similar measures. In many of the states that have adopted these policies, support has been strongly bipartisan.

## Requirements of these tuition equity laws or policies

Requirements of tuition equity laws and policies vary from state to state, but eligible students generally must have:

1. attended a school in the state for a certain number of years; and
2. graduated from high school or obtained a GED in the state.

These laws generally provide that U.S. citizen and lawfully present students who meet these requirements but have since moved out of the state can qualify for the same tuition rate immediately after enrolling.

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## Intent and impact of these laws

These policies are intended primarily to help young people who were brought to the U.S. by their parents and have worked hard in school with the hope of going to college but then discover that they face insurmountable obstacles. Currently, public colleges and universities are inconsistent in their treatment of such students. A few schools deny them admission. If they are admitted, undocumented students in many states are charged out-of-state tuition, which is several times the in-state tuition rate. They are not eligible for federal financial aid, and the average income of their parents is low. Even those who are eligible for in-state tuition almost always need to work full-time throughout their college careers and may need to skip quarters or semesters due to these financial constraints.

Experience in the states that have adopted tuition equity laws or policies suggests that such policies help U.S. citizens and immigrants of all statuses, by reducing the high school drop-out rates, increasing the number of graduates who pursue a college degree, raising student incomes and tax contributions, and yielding an array of other economic and social benefits.<sup>1</sup>

## Fairness to immigrant youth

The students who benefit from these policies tend to be goal-oriented, with high academic standing. Many do not realize until they are in the process of applying to college that their immigration status will affect their ability to pursue higher education. High school counselors have testified about the terrible task of breaking the news to such students that the dreams for which they have worked so hard cannot come true. Many parents are concerned that if their sons and daughters are unable to advance, their discouragement could lead to behavioral and psychological problems, including severe depression.

## Benefits to the state

According to experts in the states that have adopted tuition equity laws or policies, the cost of implementing them has been negligible. In-state tuition is not the same as free tuition. It is a discount, but in fact the money paid by these students often increases school revenues because it represents income that the institutions would not otherwise receive.

The bottom line is that our economic future depends on educating all young people. Young immigrants are key to addressing the serious demographic challenges that we face. As baby boomers age, the number of retirees in the U.S. will swell. People who attend college and obtain a professional job will increase their earnings and tax contributions and can help attract employers to the state who are seeking well-educated workers.

## Why these students are undocumented

Some people ask why the students affected do not apply for a “green card” to legalize their status. The answer is that most of them would love to apply, but many cannot because they don’t qualify under the current restrictive immigration laws. Some who have been able to apply must wait many years before they can apply to adjust to lawful permanent residence.

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<sup>1</sup> See resources available from [www.nilc.org/toolkit-access-to-postsecondary-education-2/](http://www.nilc.org/toolkit-access-to-postsecondary-education-2/), “Social & Economic Impact of Improving Access to Higher Education for Immigrant Students” (in NILC’s online “Toolkit: Access to Postsecondary Education”).

## Fully complies with federal law

Contrary to the claims of immigration restrictionists, federal law does *not* prohibit states from providing in-state tuition to undocumented immigrants.

Rather, section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) prohibits states from providing any higher education benefit based on residence to undocumented immigrants unless they provide the same benefit to U.S. citizens in the same circumstances, regardless of their residence.

As discussed above, and as courts have confirmed, the states that provide in-state tuition to students who meet certain criteria regardless of their immigration status have fully complied with this provision.

The law is very specific. It does not preclude states from providing in-state tuition to undocumented residents of the state as long as nonresidents in similar circumstances also qualify. The tuition equity measures are fully consistent with federal law.

## What about U.S. citizens who want to go to college?

Where state proposals have been defeated, anti-immigrant forces have scored rhetorical points by highlighting the competition between immigrants and other applicants for scarce higher education dollars. It should be remembered that the numerical impact of in-state tuition is minimal: Even in states with high immigrant populations, undocumented students represent less than 2 percent of the overall student population.<sup>2</sup>

The shortage of education dollars is real, but it is patently unfair to burden motivated and high-achieving immigrant youth with this responsibility. Education quickly pays for itself. It produces great benefits for our society, not only for those who go to school. And it strongly behooves us to fund education sufficiently so that all who are qualified may complete their education.<sup>3</sup>

### FOR MORE INFORMATION, CONTACT

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<sup>2</sup> See, e.g., *Texas Dream Act: Ensuring In-State Tuition for All Texans (HB 1403)* (Center for Public Policy Priorities, Jan. 2019), [http://forabettertexas.org/images/EO\\_2019\\_TxDreamAct.pdf](http://forabettertexas.org/images/EO_2019_TxDreamAct.pdf).

<sup>3</sup> See, e.g., Laura Goren, “*In-State Tuition is a Common Sense, Low Cost Investment for Virginia*” (The Commonwealth Institute, Jan. 2019), <https://thecommonwealthinstitute.org/research/update-in-state-tuition-is-a-common-sense-low-cost-investment-for-virginia/>.