



# OLR RESEARCH REPORT

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## **IMMIGRANT STUDENTS ATTENDING PUBLIC COLLEGES**

For: Honorable Felipe Reinoso

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You asked several questions relating to immigrant access to higher education institutions in Connecticut. The specific questions and answers follow.

### ***Are lawful permanent residents (green-card holders) eligible for admission to state and community colleges?***

Lawful permanent residents are eligible for admission to the University of Connecticut, the Connecticut state universities and community/technical colleges. They may qualify for in-state tuition if they provide proof of residency as discussed below.

### ***Are individuals possessing documents other than green cards and student visas eligible for admission to state and community colleges. Would they pay in-state or out-of-state tuition?***

A nonimmigrant visa holder is admitted to the United States temporarily for a specific purpose. Individuals coming to the United States to pursue full-time academic studies are usually admitted in the F or J category. However, other nonimmigrant visa holders already in the United States may apply to the Department of Homeland Security to change their nonimmigrant status to become a student.

Students possessing an F or J visa who are admitted to Connecticut's public colleges and universities are charged out-of-state tuition.

A dual intent visa (H or L) gives the holder the option to return to his or her country or to file an application to become a permanent resident. A person possessing one of these visas may also be eligible for admission to the University of Connecticut. Under an Attorney General's advisory opinion, students possessing a dual-intent visa are charged the out-of-state tuition rate until they have filed an application for permanent residency and have satisfied Connecticut's residency requirements, which are discussed below. Once these two conditions are met, the student pays in-state tuition.

***Are students born outside of the United States, but possessing no documents (i.e. undocumented aliens) eligible for admission to state and community colleges? Would they pay in-state or out-of-state tuition?***

Most institutions report that undocumented aliens are ineligible for admission to degree programs. Students who cannot offer documentation of citizenship or immigration-status are ineligible for admission to the University of Connecticut because their application is never considered complete. However, individuals unlawfully present who can prove they are in the process of applying for lawful permanent resident status or some other lawful category are eligible for admission.

The community/technical colleges indicate that, while undocumented aliens may not be eligible for admission to a degree program, they may enroll in classes. These credits may be used should the students become lawful residents and enroll in a degree program. There seems to be some variation among the community colleges about whether such students are charged in-state or out-of-state tuition. At the discretion of the institution, some schools may charge in-state tuition if a student meets Connecticut residency requirements.

A representative for Connecticut state universities indicates that students are admitted based on their academic credentials, but that they are required to disclose their citizenship/immigration status on their application. The U.S.A. Patriot Act requires that school officials report undocumented aliens to the Department of Homeland security. The Department of Homeland Security can then take action, which may include instituting removal/deportation proceedings, or issuing a student visa. Undocumented students admitted to schools in the Connecticut State University system are charged out-of-state tuition.

***Are all prospective students asked about their immigration status?***

All of the institutions indicate that all applicants for admission are asked about their citizenship or immigration status on the application. An applicant who indicates that he or she is not a U.S. citizen is required to submit proof of their immigration status.

***What is the difference in protocol between an international student on a student visa and a student living in the United States without a green card?***

All applicants must provide documentation to establish that they are eligible to be considered for admission. International students must first apply to study at an approved school in the United States. If the school accepts foreign national students, it provides the student with a form I-20. The student must then take the form to the nearest consulate to obtain an F-1 visa.

Individuals already in the United States who want to change their non-immigrant status must submit an additional request form. All students must also prove that they have the financial resources required for their education and stay in the United States. Once approved, proper documentation is then sent to the school.

***How do U.S. citizens prove that they have been in the state long enough to qualify for in-state tuition? Is everyone asked to prove this?***

All of the state institutions must follow the statutory requirements for determining residency for purposes of in-state tuition charges.

The Connecticut Residency Statute

To qualify for in-state tuition under the law, a person (or his parents in the case of a dependent) must be domiciled in Connecticut for at least 12 months. Domicile is a legal term that means "the place at which the person is physically present and that the person regards as home; a person's true, fixed, principal, and permanent home, to which that person intends to return and remain even though currently residing elsewhere" (*Black's Law Dictionary*, 7<sup>th</sup> Ed. , 1999). An emancipated person cannot establish domicile merely by attending a Connecticut university full-time, in the absence of a clear demonstration of intent to establish a Connecticut domicile.

Members of the military on active duty in the state qualify for the in-state tuition rates even if they have not lived in the state for a full 12 months. Anyone employed full-time in Connecticut can apply for residency status for his spouse and unemancipated children after living in the state for six months if he provides evidence of domicile and the employee is not in the state primarily as a full-time student. Also, the spouse of anyone classified as an in-state resident qualifies for in-state tuition (CGS §§ 10a-28 & 10a-29).

All of the institutions require applicants to submit documents to attest to their residency. The applicant must submit high school transcripts, copies of their parents' tax filings, and other documentation, which may include a valid driver's license, evidence of military home of record, voter registration, car registration, bank account and employment information.

An applicant who has not met the one-year residency standard must provide overwhelming proof of intent to live in Connecticut. Apparently, the institutions have some discretion as to what constitutes proof and how much weight to give the documentation the applicant presents.

***Are any sources of financial aid available to a student who is not a "full" citizen?***

Connecticut state universities, community/technical colleges, and the University of Connecticut follow the federal student aid (FSA) guidelines when providing financial aid to students. Noncitizens eligible for FSA aid include permanent residents legally permitted to live and work in the United States, aliens granted asylum or refugee status, Cuban and Haitian entrants, and aliens paroled into the United States pursuant to federal immigration law for at least one year. Cubans are eligible if they entered the country illegally between April 15 and October 10, 1980. Haitians are eligible if they entered the country illegally before January 1, 1981. Parolees are eligible if they have evidence from the Bureau of Citizenship and Immigration Services, such as a valid permanent resident application, that they are in the country for other than a temporary purpose and intend to become U.S. citizens or permanent residents. (A parolee is an alien allowed into the United States for urgent humanitarian reasons or when entry is determined to be for significant public benefit.)

All of the institutions indicate that non-immigrant students may be eligible for other competitive scholarships.

***What other area states have passed laws giving in-state tuition to immigrants and have there been any legal challenges? Do these***

***laws grant in-state tuition based on state residence or high school attendance?***

A survey of New England states, as well as New York and New Jersey, reveals that only New York currently has a law allowing immigrants to qualify for in-state tuition. The law permits all students, regardless of immigration status, to qualify for in-state tuition rates if the student attended a New York high school for two or more years, applied to attend a New York city or New York state college or university within five years of receiving a high school diploma or its equivalent (issued in New York), and if the student signs an affidavit promising to file an application to become a legal permanent resident as soon as possible (N.Y. Education Law §355.) This law has not been challenged to date. Massachusetts, New Jersey, and Rhode Island have considered or are currently considering similar legislation.

On a national level, California, Illinois, Oklahoma, Texas, Utah and Washington have all passed laws allowing in-state tuition for legal and illegal immigrants. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 amended federal higher education statutes to prohibit states from offering residency based in-state tuition benefits to illegal aliens unless they offer in-state tuition to all legal United States residents, regardless of their state of residence. Therefore, these state laws tie eligibility for in-state tuition to in-state high school attendance.

In addition to the states noted above, Congress is currently considering the DREAM (Development, Relief, and Education for Alien Minors) Act, which would, in part, repeal portions of the aforementioned 1996 immigration reform laws (S.1545, 108<sup>th</sup> Cong. (2004)). The House version of the DREAM Act is called the Student Adjustment Act (H.R. 1684, 108<sup>th</sup> Cong. (2004)).