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Analysis: Barriers to Accessing In-State Tuition

Barriers to Accessing In-State Tuition for Humanitarian Parolees, Asylum Seekers, and Other Displaced People

In the wake of the chaotic U.S. withdrawal from Afghanistan, the war in Ukraine, and most recently, the crisis in Venezuela, the Biden administration has increasingly utilized humanitarian parole[1] as an expedient pathway to bring certain endangered populations to safety in the United States. This has led to a sudden increase in the number of parolees in the United States, alongside growing numbers of Temporary Protected Status (TPS) holders and asylum seekers. While these populations can lawfully reside, work and make valuable contributions to their communities, their temporary status can impact their eligibility for certain public benefits at the state and local level, including access to in-state tuition for higher education.

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To better understand the landscape of in-state tuition access, the International Refugee Assistance Project and the Refugee Advocacy Lab conducted [an analysis](#) of in-state tuition laws and policies in all 50 states as they would

apply to humanitarian parolees, refugees, asylees, asylum seekers, Special Immigrant Visa (SIV) and TPS holders. While several states, university systems and institutions of higher education have made great strides in recent years towards inclusivity of displaced populations, humanitarian parolees, asylum seekers and TPS holders remain underserved or excluded from access to in-state tuition. **Our analysis found that policies in 72 percent of states exclude or fail to mention asylum seekers, while 68 and 65 percent did so for TPS holders and humanitarian parolees, respectively.**

In a [recent study](#) examining integration outcomes in the United States for displaced people,[2] access to higher education emerged as one of the most important indicators for integration, with several study participants emphasizing difficulties they faced in continuing the education they began in their home countries. Charging out-of-state tuition, which can often be three times higher, is cost prohibitive for most displaced students, effectively preventing them from pursuing their education. As humanitarian parole and TPS increasingly serve as pathways of providing safety in the United States, and as asylum backlogs continue to mount, it is more important than ever that states and institutions of higher education ensure their policies do not ignore these populations.

becoming eligible for in-state tuition, the most common way is by establishing residency in a state. Generally speaking, living, working and/or paying taxes in a state for a year or more would

qualify most people for in-state tuition. **However, for several of the categories of displaced people we examined, they would not be eligible for in-state tuition regardless of the number of years they lawfully live, work or pay taxes in a state.**

Although residency requirements are frequently defined in state law, it is typically left to boards of higher education, university systems, or individual schools to implement these policies, including specifying which immigration statuses are eligible to establish residency for in-state tuition purposes. The eligibility of noncitizens for in-state tuition benefits can be a complex legal question, and it is unsurprising that institutions of higher education have found it challenging to provide clear guidance. In addition, given the recent rise of humanitarian parole status from relative obscurity, it is also not surprising that most in-state tuition policies fail to mention parolees and other related displaced populations. In our analysis, **we found that in at least 17 states, humanitarian parolees were not eligible for in-state tuition, regardless of how long they were resident in the state.** In a further 21 states, policies did not specify whether parolees would qualify, making it difficult to determine conclusively whether they were eligible for any post-secondary benefits.

Asylum seekers were also frequently excluded from qualifying for residency for in-state tuition purposes. **Asylum seekers were not eligible in 19 states, while in 16 states, they were not mentioned at all.** The current backlog of asylum cases has created a situation where asylum seekers can lawfully live, work and pay taxes in a state for several years without ever qualifying for in-state tuition. Most asylum seekers wait upwards of five years before an interview is scheduled.[3]

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TPS holders fared only slightly better, with 16 states prohibiting access to in-state tuition, and 16 providing no specific guidance. In some states, the noncitizen eligibility classifications

appeared rather arbitrary. For example, the State Council of Higher Education for **Virginia** (SCHEV) classifies parolees and asylum seekers as non-citizen categories that are ineligible to establish residency, whereas TPS holders may qualify.[4]

We additionally uncovered examples of institutions in **New Jersey, Illinois, Louisiana, Wyoming and South Carolina** prohibiting *all* noncitizens from qualifying for in-state tuition unless they are legal permanent residents (LPRs), a policy that stands on highly questionable legal grounds. Some institutions in **Illinois** appear to require attendance and graduation from a state high school for noncitizens to qualify for in-state tuition, which appears to confuse state law provisions intended for undocumented students with general eligibility requirements applicable to “lawfully present” noncitizens.[5] These laws/policies appear to be in direct contradiction to a long line of cases out of the



On the other end of the spectrum, states like **New York** particularly stood out for their clear and inclusive residency classifications. None of the categories we surveyed were excluded from becoming residents for in-state tuition purposes by the State University of New York (SUNY). In addition, the SUNY policy removes any guesswork by having an accessible and comprehensive list of non-citizen categories, including which employment authorization document (EAD) codes were eligible for in-state residency classification.[7]

Proactively listing out each noncitizen category could also have pitfalls, particularly if states or institutions do not have the resources or expertise to keep such policies up to date. Several states and institutions sidestepped this concern by using the possession of a valid EAD, tax returns and/or evidence of full-time employment as proof of residency, which, in effect, widened the net of eligible noncitizen categories, thereby including parolees, asylum seekers with EADs, and TPS holders.[8] Other states, like **Colorado**, specified certain categories, like international student visas, as ineligible, and provided a blanket declaration that all other categories are eligible if residency and other requirements were met.[9]

Alternative pathways to in-state tuition

Several states have enacted tuition equity laws that enable individuals to qualify for in-state tuition regardless of their immigration and residency status if they attended high school for a certain number of years in the state. Such laws are incredibly important for improving access to affordable higher education, particularly for undocumented students. However, qualifying pursuant to these laws can be burdensome to those who have already completed their high school education in their home countries. In recognition of this fact, some states, like **Colorado**, have recently moved towards reducing the number of years of high school attendance down to one year or successful completion of high school equivalency.[10]

Similarly, some states have also enacted laws permitting refugees and Special Immigrant Visa holders to access in-state tuition without the requirement to establish residency. Such provisions are particularly important in easing barriers given the challenges and delays faced by newcomers in obtaining documents that prove residency, such as drivers licenses, residential leases, tax returns, and employment. But unfortunately, almost none of these laws extend in-state tuition benefits to humanitarian parolees and other categories of displaced people. In recognition of the need to expand such laws for greater inclusivity, **Oregon** recently passed one of the most expansive in-state tuition bills, [Senate Bill \(S.B.\) 1522](#), which established a pathway to in-state tuition for refugees, SIVs, humanitarian parolees and TPS holders.

Several states grant university/college systems and individual institutions discretion to provide reduced tuition rates or grant waivers to students with special circumstances.[11] **Oklahoma** State University, for example, provides assistance to Afghan parole students by providing waivers to eligible students. [12]



access to in-state tuition, especially if they otherwise meet residency requirements. Expanding in-state tuition eligibility has little to no financial impact on institutions given the small number of students in these categories.[13] It also bears highlighting that in-state tuition is not free tuition, and for most institutions, expanded in-state tuition access represents an increase in revenues because it generates income from students who otherwise would not attend.[14] Expanded access also reduces high school dropout rates by as much as 14 percent.[15]

Access to affordable higher education is key to successful integration and economic stability for newcomers and the communities they call home.

“Expanding in-state tuition eligibility has little to no financial impact on institutions.”

As states struggle with aging populations and labor shortages, improved access to higher education should figure centrally within state policy priorities. If allowed to thrive, displaced students can enrich our classrooms, invigorate our economies, and make our communities stronger through their contributions to our public life and cultural institutions.

To access our in-state tuition research and policy tracker, please [click here](#). The tracker summarizes in-state tuition policies in all 50 states as they apply to refugees, SIVs, humanitarian parolees, asylum seekers, asylees and TPS holders.

[1] Section 212(d)(5) of the Immigration and Nationality Act (INA) allows the secretary of homeland security to use their discretion to parole any noncitizen applying for admission into the United States temporarily for urgent humanitarian reasons or significant public benefit.

[2] The term displaced people is used generally to refer to individuals with lived displacement experience who arrive in the United States through different pathways, including refugee resettlement, asylum, Special Immigrant Visas, humanitarian parole, and other avenues.

[3] “Barriers and Backlog: Asylum Office Delays Continue to Cause Harm,” Human Rights First, accessed November 15, 2022, <https://humanrightsfirst.org/library/barriers-and-backlog-asylum-office-delays-continue-to-cause-harm/>.

[4] “Addendum A: Descriptions and Domicile Eligibility Status for Various Categories of Aliens Referenced in the Guidelines for Determining Domicile and Eligibility for In-State Tuition Rates,” State Council of Higher Education for Virginia, accessed November 15, 2022, <https://www.schev.edu/home/showpublisheddocument/600/637810401480470000>

[5] “University of Illinois Residency Status Policy,” University of Illinois System, accessed November 15, 2022,



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[7] “Residency, Establishment of for Tuition Purposes,” State University of New York, accessed on November 15, 2022, https://www.suny.edu/sunypp/documents.cfm?doc_id=402

[8] See for e.g. AR, OH, WA in the Refugee Advocacy Lab In-State Tuition Tracker.

[9] “Tuition Classification Guidelines,” Colorado Commission on Higher Education, accessed on November 15, 2022, https://cdhe.colorado.gov/sites/highered/files/2020-03/guidelines_2018.pdf

[10] H.B. 22-1155, 73rd Gen. Assemb., Reg. Sess. (Colo. 2022), <https://leg.colorado.gov/bills/HB22-1155>

[11] See Refugee Advocacy Lab In-State Tuition Tracker entries for Utah and Montana.

[12] “OSU joins ‘Welcome Campus Network’ to support Afghan refugees,” Oklahoma State University, 9 Dec. 2021, https://news.okstate.edu/articles/communications/2021/osu_joins_welcome_campus_network_to_support_afghan_refugees.html.

[13] “Basic Facts About In-State Tuition for Undocumented Immigrant Students” National Immigration Law Center, (July 2022), accessed on November 15, 2022, <https://www.nilc.org/issues/education/basic-facts-instate/>

[14] *Id.*

[15] “Undocumented Students in Higher Education: How Many Students are in U.S. Colleges and Universities, and Who Are They?” New American Economy, (April 2020) accessed on November 15, 2022, https://research.newamericaneconomy.org/wp-content/uploads/sites/2/2020/04/HigherEd_brief_V3-1.pdf

ADVOCACY RESOURCES



Resource: In-State Tuition Tracker

Quarterly State Executive Best Practices Series: Access to Mental Health Services

