



Halting of Texas' In-State Tuition for Undocumented Students: Explainer

Texas' policy providing access to in-state tuition for undocumented students who are Texas residents abruptly ended on June 4, 2025 after a federal judge invalidated the state's 24-year-old law, known as the "Texas Dream Act." The decision immediately impacts [57,000 Dreamers and other undocumented students](#) who graduated from a Texas high school and are pursuing higher education in the state, as well as [197,000 students](#) under the age of 18 who are on track to graduate from a Texas high school.

The decision came two days after the Texas legislature ended its 2025 session without moving forward on [proposed legislation](#) to repeal in-state tuition for the state's undocumented students. Despite that, the Trump administration filed a lawsuit challenging the legality of the law – which has been in place for 24 years – and Texas Attorney General Ken Paxton weighed in to support the federal government's lawsuit.

United States v. Texas

The U.S. Department of Justice (DOJ) on June 4 [filed a lawsuit](#), *United States v. Texas*, challenging Texas' in-state tuition law for undocumented students. Soon after, Texas Attorney General Ken Paxton indicated he would not oppose the lawsuit and – instead of defending the state's law – filed a joint motion with the DOJ asking the federal court to permanently block the law. Within a few hours, U.S. District Judge Reed O'Connor [issued an order](#) permanently blocking Texas' in-state tuition policy for undocumented students.

The Justice Department filed the lawsuit in the Wichita Falls division of the Northern District of Texas, a [single-division](#) federal court where Judge O'Connor, an appointee of President George W. Bush, hears virtually all the cases. Critics immediately assailed the speed at which the case was settled.

Judge O'Connor's one-page order permanently blocks access to in-state tuition and state financial aid for undocumented students in Texas who "are not lawfully present in the United States." The ruling appears to exempt DACA recipients, Temporary Protected Status (TPS) holders, parolees, and others who are considered "lawfully present," though the number of these students in higher education nowadays is relatively low. O'Connor ruled that Texas' in-state tuition law violates the Supremacy Clause of the U.S. Constitution and is therefore "unconstitutional and invalid." An impacted party could [potentially intervene](#) and appeal the decision, but it is not immediately clear if that is possible given the case is now settled.

Trump Administration's Argument

In its lawsuit, the DOJ argued that Texas' in-state tuition law is unconstitutional under the Supremacy Clause, which establishes that federal law supersedes any conflicting state law. The DOJ argued that Texas in-state tuition law was providing benefits (*i.e. access to in-state tuition and state financial aid*) to "illegal aliens" (*i.e. undocumented students who are Texas residents*) that it does not provide to U.S. citizens (*i.e. out-of-state U.S. citizens*). The DOJ argued this conflicts with a federal law, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The IIRIRA prohibits higher education institutions from providing a postsecondary education benefit unless a U.S. citizen is also eligible for such a benefit.

Supporters of Texas' in-state tuition policy note that out-of-state U.S. citizens are eligible for in-state tuition if they meet the same standards required for undocumented students who are Texas residents – namely graduating from a Texas high school and living for at least three years in Texas before their high school graduation date.

Background

In 2001, Texas became the first state in the country to allow undocumented students who graduated from a Texas high school and met other certain requirements to access in-state tuition and state financial aid through the “Texas Dream Act.” This policy received significant bipartisan support and, over the years, similar policies gained momentum across multiple states.

At the beginning of 2025, Texas was [one of 25 states](#) that provided access to in-state tuition for its undocumented students, containing the [second-highest number](#) of undocumented students enrolled in higher education (57,000). As of June 2025, the number of states that provide access to in-state tuition for undocumented students has declined to 23 states after Florida [repealed](#) its law in May and this court took action to block Texas' law on June 4.

Texas Dream Act

Texas [House Bill \(H.B.\) 1403](#), known as the “Texas Dream Act,” was signed into law on June 16, 2001 by then-Gov. Rick Perry (R-Texas). This policy provided undocumented students who are Texas residents with access to in-state tuition and state financial aid if they [met the following requirements](#):

- **Graduated from Texas high school** or received the equivalent of a high school diploma in Texas;
- **Resided in Texas for at least three years** before their high school graduation date or the date the person received the equivalent of a high school diploma; and,
- **Signed an affidavit** stating that they will file an application to become a permanent resident at the earliest opportunity they are eligible to do so.

Eligibility for in-state tuition did not mean automatic enrollment in an institution of higher education. Undocumented students still needed to be accepted by a college or university and meet all other requirements to enroll.

Today

Moving forward, Texas' in-state tuition policy is effectively blocked for most undocumented students in the state. DACA recipients and others who are considered “lawfully present” in the U.S. (TPS holders, parolees, etc.) can still access in-state tuition in Texas if they continue to meet the state residency requirements under the “Texas Dream Act.” However, today, most undocumented students in higher education do not have DACA.

The lack of DACA recipients in higher education today is due to two stringent DACA requirements: a requirement to be at least 15 years to apply for DACA for the first time and a requirement to have arrived in the U.S. before June 15, 2007. Some undocumented students are DACA-eligible but were too young (under age 15) to apply for DACA for the first time before legal challenges blocked the processing of new applications in 2017, permitting only renewals. Others came to the U.S. at a young age, but it was after the June 15, 2007 cut-off date for DACA. Most DACA recipients today are post-college age.

The Trump administration is likely to have the authority to process initial (“new”) DACA applications due to [a recent decision](#) by the U.S. Court of Appeals for the Fifth Circuit. However, it is unclear if the administration will process those “first-time” DACA applications.

Impact: Blocking In-state Tuition

Blocking in-state tuition policy will create significant obstacles for Dreamers and other undocumented students hoping to access higher education in the state. The rescission will add prohibitive costs for many undocumented students, have adverse economic impacts for Texas, and is counter to legislative and public support for the “Texas Dream Act.”

- **Prohibitive cost.** Texas out-of-state tuition is roughly three to four times the rate of in-state tuition. Current and future students – including those who are in the process of completing their academic degrees – could face significant costs without any access to financial aid. At the University of Texas in Austin, Texas residents [pay \\$10,800 for tuition](#) a year. The cost for out-of-state students is about \$40,500. The out-of-pocket cost of higher education would place it beyond reach for many undocumented students in Texas. Students will take longer to complete their degrees or decide altogether to drop out. Others will head to different states.
- **Economic fallout.** Economic analysis [suggests](#) that rescinding in-state tuition for undocumented students in Texas could cost the state more than \$461 million each year due to lost wages earnings and spending power. Undocumented Texans with bachelor’s degrees earn 57 percent more than those without, paying more in taxes and generating economic activity. Those with some college education, even if they do not complete their degree, create \$46.4 million in economic activity in Texas annually. In 2022, undocumented Texans paid [\\$4.9 billion](#) in state and local taxes—a sum that [helps support](#) public higher education. Higher education also helps undocumented residents and other noncitizens [contribute](#) to industries with critical needs and labor shortages in the state. Blocking in-state tuition for undocumented students in Texas will create significant barriers to their contributions to the state tax base and work in key professions, including limiting the pool of candidates for key professions like healthcare workers.
- **Undermines legislative intent.** The repeal of in-state tuition for undocumented students via litigation directly undermines the Texas legislature’s support of the policy going back to the bipartisan enactment of the “Texas Dream Act.” The lawsuit and settlement came only days after the Texas legislature considered and declined to act on multiple bills in its 2025 session to repeal in-state tuition for undocumented students. Neither the Texas Senate nor the Texas House moved forward with the legislation, seemingly ensuring that the “Texas Dream Act” would continue to allow undocumented students who grew up in Texas and graduated from a Texas high school to have access to in-state tuition rates at public colleges and universities. Repealing the policy now, through a judicially-approved court settlement, undermines the decision of the Texas legislature to keep it in place and is in tension with previous legal decisions permitting such policies to remain in place. The action also disregards the will of a broad coalition of educators, business leaders, and community advocates who have consistently defended the law and successfully advocated against its repeal.

The approval of the settlement reached by the Trump administration and Texas Attorney General Ken Paxton undermines the futures of thousands of young people who have grown up in and graduated from Texas schools, and will harm Texas’s economic vitality. Undocumented students

- many of whom study to become teachers, engineers, healthcare workers, and entrepreneurs — are key to the state's future workforce. Terminating Texas' in-state tuition policy via this settlement turns the state away from a policy that made it a national leader in educational access. If the settlement is not appealed or otherwise is allowed to remain in place, Texas may find itself falling behind in cultivating the skilled and resilient workforce it needs to thrive.