



Written by [R. Cort Kirkwood](#) on June 6, 2025

Federal Judge Enjoins Texas Law Giving In-state Tuition to Illegal Aliens

For now, Texans won't fork out \$150 million annually to subsidize the college education of illegal aliens with in-state tuition.

A federal judge has permanently enjoined the state from offering the tuition to illegals, pursuant to a complaint from the U.S. Justice Department (DOJ) just two days ago. It argued that the 24-year-old enabling statute was unconstitutional.

Lone Star State Attorney General Ken Paxton joined DOJ in seeking the injunction.



dszc/iStock/Getty Images Plus
University of Texas at Austin

Attorney General Ken Paxton
Successfully Strikes Down
Unconstitutional Law that Gave
In-State Tuition to Illegal Aliens:
<https://t.co/9eZbY31tv1>

— Texas Attorney General
(@TXAG) [June 5, 2025](#)

Legislation

Texas created the magnet for illegal immigration in 2001 with a bill providing in-state tuition for illegals. The law “allows undocumented students to qualify for in-state tuition if they have lived in the state for three years before graduating from high school and for a year before enrolling in college,” the [Texas Tribune reported](#) in its story about GOP legislation to stop it. The students also need “an affidavit stating they will apply for legal resident status as soon as they can.”

GOP state Senator Mayes Middleton has introduced a bill to end the benefit and collect the difference between in-state and out-of-state tuition from those who already received the freebie. The subsidy cost taxpayers \$150 million in the 2024-25 school year, he argued.

And Texas House member Cody Vasut has introduced a bill tying in-state tuition for illegals to the students' applications to become permanent U.S. residents, the [Tribune noted](#).

That was early May. A month later, the legislation is no longer needed, unless higher courts overrule the judge who enjoined the in-state tuition. Lawsuits funded by the usual far-left suspects are undoubtedly ahead.

On Wednesday, DOJ sued in the U.S. District Court for the Northern District of Texas.

The [12-page complaint argues](#) that the [Supremacy Clause](#) of the federal Constitution preempts the Texas law granting in-state tuition. Says [8 U.S. Code 1623](#):



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Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

“The U.S. Court of Appeals for the Fifth Circuit has already declared as much in [Young Conservatives of Texas Foundation v. Smatresk](#), where it stated that § 1623(a) ‘expressly preempts state rules that grant illegal aliens benefits when U.S. citizens haven’t received the same,’” the complaint argues.

The same day, DOJ and Texas [jointly moved](#) to ask the court for a permanent injunction to block Texas from enforcing the provisions in the law that permit the in-state tuition. The motion noted:

In direct and express conflict with federal law, Texas education law specifically allows an alien who is not lawfully present in the United States to qualify for in-state tuition based on residence within the state, while explicitly denying resident-based tuition rates to U.S. citizens that do not qualify as Texas residents,.

[Judge Reed O'Connor](#), appointed by President George W. Bush in 2007, [did so](#) the same day.

“I’m glad to see this lawsuit,” Middleton wrote on X:

I filed the bill to ban in-state tuition for illegal immigrants. Now, I hope the State settles this lawsuit, and as part of the settlement, agrees to finally end subsidized in-state tuition for illegal immigrants.

I’m glad to see this lawsuit. I filed the bill to ban in-state tuition for illegal immigrants. Now, I hope the State settles this lawsuit, and as part of the settlement, agrees to finally end subsidized in-state tuition for illegal immigrants. <https://t.co/CJWY1SJyIe>

— Mayes Middleton (@mayes_middleton) [June 4, 2025](#)

Boo-hoo

In its story about Reed’s ruling, the [Tribune noted](#) that the law was likely doomed:

In 2022, a district court ruled that federal law prevented the University of North Texas from offering undocumented immigrants an educational benefit that was not available to all U.S. citizens. The 5th U.S. Circuit Court of Appeals threw out that case on procedural grounds, but noted there likely were “valid preemption challenges to Texas’ scheme.” Trump administration lawyers repeatedly cited that finding throughout Wednesday’s filing.

“States like Texas have been in clear violation of federal law on this issue,” said Robert Henneke, executive director and general counsel at the Texas Public Policy Foundation, the conservative think tank that brought the 2022 lawsuit. “If anything, it’s surprising that this wasn’t brought earlier.”



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The [final 442 words](#) of the website's story were a long, lachrymose lament.

"It'll mean that some of the brightest young students in the country, some of the most motivated, will be denied an opportunity for higher education," said Don Graham, founder of [TheDream.US](#), a scholarship program for illegals. "And it'll hurt the workforce, it'll hurt the economy."

The far-left, open-borders American Immigration Council [claimed that](#) ending in-state tuition for illegals would "cost Texas more than \$460 million a year from lost wages and spending power," the [website reported](#):

The loss of thousands of students will also have an immediate financial impact on universities, according to available data. About 20,000 students using the law to enroll at Texas universities paid over \$81 million in tuition and fees in 2021, according to a report from progressive nonprofit Every Texan. In the wake of the court's ruling, advocates said stifling those enrollments would create cascading effects.

And, the website reported, another lawsuit is coming from [Immigrant Families and Students in the Fight](#) (FIEL). "Without in-state tuition, many students who have grown up in Texas, simply will not be able to afford three or four times the tuition other Texas students pay," FIEL Executive Director Cesar Espinosa said. "This is not just."

That Espinosa testified in a House committee against repealing the tuition law is no surprise. "[The law] allowed him and his three siblings — including one who testified alongside him — to go to college in state and maintain successful careers in Texas," the [website reported](#):

"I'm here 24 years later to tell you that this works, and this is not a giveaway, but rather, this is something that all Texans deserve," Espinosa said during the April hearing [on Vasut's House bill].



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CESAR ESPINOZA

Education Taskforce



Mr. Espinosa is a proud immigrant from Mexico. He came to the U.S. in 1991 at the age of 5. Currently he is a DACA recipient. Mr Espinosa attended the prestigious Michael E DeBakey High School for Health Professions in HISD. He then went on to study at Houston Community College subsequently transferring to the University of Houston where he studied Political Science. Mr. Espinosa is Co founder and current Executive Director of the largest Immigrant Led Civil Rights Organization in Texas named FIEL (Familias Inmigrantes y Estudiantes en la Lucha – Immigrant Families and Students in the Fight). FIEL is immigrant-led organization that seeks to empower the immigrant community in Houston, the State of Texas and The United States. Mr. Espinosa has served and is currently serving on a variety of boards at the local, state and national level. He has also always looking to work on a variety of issues including, race relations, police reform and a variety of issues uplifting many communities. Mr. Espinosa is an advocate for immigrants rights, students rights and human rights. With his over two decades of experience in the field of organizing Mr. Espinosa has learned how true grassroots organizing can truly make the difference in our communities. Mr. Espinosa considers himself a "proud Houstonian".

A Mexican, Espinosa had a vested interest in receiving in-state tuition. An online biography [averts that](#) he is a "DACA recipient."

DACA — Deferred Action for Childhood Arrivals — was the Obama administration's [unlawful illegal-alien amnesty, declared in 2012](#), which blocked the deportation of illegal kids brought here "through no fault of their own."

The Trump administration [continues battling](#) the unconstitutional amnesty in federal court.



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