Discriminatory Policies Concerning In-State Tuition Rates for High School Students in Texas

The United States prides itself in providing free education to all school aged children. Access to education is considered a fundamental right in this country. However, access to higher education is not equally accessible for all people. Current policies in Texas, financially discriminate against high school students who are United States citizens whose parents have undocumented residency status. This ethical issue prevents many high school students from enrolling in dual-credit courses.

The residency status of high school students who wish to enroll in college courses at a Texas college or university is based on the residency of their parents. On average, non-resident tuition rates at public universities in Texas are almost 2.5 times higher than resident tuition rates (Texas Higher Education Coordinating Board, 2013). Non-resident tuition rates at public community colleges are almost 3.5 times higher than resident tuition rates (Texas Higher Education Coordinating Board, 2013). The ethical issue raised is that students who are United States citizens and attend a Texas high school, but are the children of undocumented immigrants, are classified as non-residents and must pay higher tuition rates if they wish to enroll in dual credit courses. Children from immigrant families face several barriers to higher education access, including financial issues. Immigrant families are more likely to live in poverty than the general population (Erisman & Looney, 2007), making dual-credit enrollment less likely for these students, especially when face with higher tuition costs.

In 1982, the U.S. Supreme Court found the Texas policy denying free education to children of illegal immigrants unconstitutional, meaning K-12 schools receiving federal funding cannot deny children an education based on their parents’ immigration status (*Plyer vs. Doe*, 1982). Although, this decision does not apply to institutions of higher education, almost two
decades later the Texas legislature passed House Bill 1403 which granted undocumented students who meet certain requirements in-state tuition, making Texas, along with California, the first states to allow in-state tuition rates to undocumented students (National Conference of State Legislators, 2012). In 2005, the Texas Senate (SB 1528) expanded the law to include not only undocumented students, but also granted citizens and permanent residents a way to claim residency not based on the residency of their parents. Currently in Texas, students can claim Texas residency if they graduate from a Texas high school and have lived in Texas three years leading up to graduation. This allows citizens and non-citizens a way to claim Texas residency and pay in-state tuition rates. However, in order for students to claim residency they have to graduate from a Texas high school. This prevents United States citizens who attend Texas high schools from paying in-state tuition rates if their parents have undocumented residency statuses.

In 2011, the immigrant population in Texas accounted for 16% of the state’s total population. While Hispanic or Latino immigrants represented over 70% of the immigrant population in Texas, 34% of children under the age of 18 in Texas resided in immigrant families (at least one foreign-born parent), but 87% of those children were U.S. citizens by birth (Migration Policy Institute, 2013). A large student population of U.S. citizens living with immigrant families makes this policy issue and ethical dilemma relevant in Texas.

Enrolling in dual-credit courses is a rising trend among Texas high school students. In the fall of 2012, almost 100,000 high school students in Texas were enrolled in dual-credit courses. The number of high school students enrolled in dual-credit courses in Texas has more than doubled since 2005 when SB 1528 passed (Texas Higher Education Coordinating Board, 2012), making access to dual-credit courses in Texas a more relevant issue than it was a decade ago. Dual-credit enrollment does positively influence college degree attainment (An, 2012; Jobs for
the Future, 2012). In a recent longitudinal study on the outcomes of dual-credit enrollment in Texas, students enrolled in dual-credit courses were 2.2 times more likely to enroll in a Texas two or four year college than their classmates who did not participate in dual-credit courses (Jobs for the Future, 2012). The study found dual-credit courses were even more critical for economically disadvantaged students. Students who were economically disadvantaged were almost 2.5 times more likely to attend college after completing dual-credit courses than economically disadvantaged students who were not enrolled in dual-credit courses. Students who participated in dual-credit courses were 1.7 times more likely to complete a college degree than students who did not enroll in dual-credit courses.

Although, this policy brief addresses the issue of tuition rates for Texas high school students who are U.S. citizens, the various state policies regarding undocumented students inform this policy. Currently eleven states in the U.S. have passed legislation that allows in-state tuition rates for undocumented students. The policies have various requirements, but most are similar to the Texas policy requiring 1-3 years attendance and graduation from an in-state high school (National Conference of State Legislators, 2012). These policies benefit not only undocumented students, but also U.S. citizens whose parents do not have legal residency status in the United States.

Florida, a state that does not allow undocumented students to pay in-state tuition, determines the residency status of college dependent students on their parents’ residency. Under current Florida law, students are considered dependent if their parents can claim them for federal tax purposes. In 2012, a U.S. District judge found Florida’s residency policy for public college and university tuition rates a violation of the Fourteenth Amendment of the U.S. Constitution (Ruiz v. Robinson, 2012). United States citizens who had lived in Florida for several years and
graduated from Florida high schools were being charged non-resident tuition rates because their parents’ were illegal immigrants.

The Equal Protection Clause to the Fourteenth Amendment of the U.S Constitution states,

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States,” and States cannot “deny to any person within its jurisdiction the equal protection of the laws.”

This means a state must provide education equally to all citizens and residents of the state. The students in Ruiz v. Robinson (2012) were college students, but there has not been a legal test of whether the 14th Amendment of the U.S. Constitution applies to high school U.S. citizens.

In response to the decision of Ruiz v. Robinson (2012), Florida legislators have submitted several bills to rectify the current policy that violates constitutional rights of some United States citizens. House Bill 7051 (2013), which passed in the Florida House of Representatives, states that U.S. citizen children may not be denied in-state resident status solely on the immigration status of their parents. Currently in committee, Maryland House Bill 871 (2013) would ensure that high school students enrolled in dual-credit courses could pay in-state tuition rates, regardless of their immigration status, if they meet certain requirements. Texas legislators should consider these options when addressing the issue of in-state tuition rates among U.S. citizens enrolled in dual-credit courses with parents.
References


Texas Education Code § 54.052.


http://collegeforalltexans.com/apps/collegecosts.cfm?Type=1&Level=2


U.S. Constitution, Fourteenth Amendment.

http://factfinder2.census.gov/faces/tablesservices/jsf/pages/productview.xhtml?pid=ACS_11_5YR_DP05