

Oklahoma State Regents for Higher Education
January 2, 2008

Undocumented Immigrant Students
Information for the Oklahoma State System of Higher Education

The following information is intended to assist institutions of The Oklahoma State System of Higher Education in implementing the provisions of HB 1804 and SB 820 of the 2007 legislative session as well as the related State Regents policy (3.18.9) that became effective November 1, 2007.

HB 1804 provides that an individual who is not lawfully present in the United States shall not be eligible on the basis of residence within Oklahoma for any postsecondary education benefit, including but not limited to, scholarships or financial aid, or for resident tuition, except as provided under new law set forth in other provisions of HB 1804 and under the revised State Regents' policy (3.18.9) which conforms with that new law. However, HB 1804 also provides that this provision regarding eligibility for resident tuition and state financial aid shall not apply to an undocumented immigrant student enrolled in a degree program during the 2006-07 school year or any prior school year who received a resident tuition benefit pursuant to the pre-HB 1804 statute and pre-HB 1804 State Regents policy regarding undocumented immigrant students. In addition, SB 820 of the 2007 legislative session creates unique treatment of undocumented immigrant students participating in Oklahoma's Promise.

The new legislation identifies three categories of undocumented immigrant students:

Category I – students enrolled in a degree program during the 2006-07 year or any prior school year who received a resident tuition benefit pursuant to the pre-HB 1804 statute and pre-HB 1804 State Regents' policy. These students are “grandfathered” and remain eligible for resident tuition and state financial aid under the pre-HB 1804 law and pre-HB 1804 policy.

Category II – students enrolling in a postsecondary education institution in 2007-08 and thereafter. These students are subject to the new restrictions under HB 1804 and the State Regents' policy that became effective November 1, 2007.

Oklahoma's Promise – While students participating in Oklahoma's Promise also fall into either Category I or Category II, SB 820 provides unique treatment of these students with respect to their eligibility to receive the Oklahoma's Promise award.

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Category I: Students Enrolled in 2006-07 or Prior Years (“grandfathered” students)

Undocumented immigrant students enrolled in a degree program (does not include concurrent enrollment) in 2006-07 or any prior school year who received a resident tuition benefit are subject to the requirements of SB 596 of the 2003 legislative session and the related State Regents policy in place until October 31, 2007.

To be eligible for enrollment, resident tuition, and state financial aid, a Category I undocumented immigrant student must:

1. have graduated from a public or private high school in Oklahoma or received the GED certificate in Oklahoma;
2. have resided in Oklahoma with a parent or guardian for at least two (2) years prior to graduation from high school or receipt of the GED certificate;
3. satisfy admission standards, as determined by the State Regents, for the institution in which the student intends to enroll;
4. have secured admission and enrolled in an institution within The Oklahoma State System of Higher Education; and
5. file an affidavit (see Attachment A) with the institution stating that the student:
 - a. has filed an application or has a petition pending with the United States Citizenship and Immigration Services to legalize the student's immigration status; or
 - b. will file an application to legalize his or her immigration status at the earliest opportunity the student is eligible to do so.

Category I undocumented immigrant students who meet the conditions outlined above are eligible to receive awards for the following state financial aid programs*:

- Oklahoma Tuition Aid Grant (OTAG)
- Academic Scholars Program
- Oklahoma Tuition Equalization Grant (OTEG)
- Regional University Baccalaureate Scholarship
- National Guard Tuition Waiver
- Future Teachers Scholarship
- Tulsa Reconciliation Scholarship
- Any other state-funded scholarship
- Any institutional financial aid, including tuition waivers.

**Students participating in Oklahoma’s Promise are subject to unique provisions per SB 820 as described in the section entitled “Oklahoma’s Promise.”*

Frequently Asked Questions Related to Category I Students:

- *Are the “grandfathered” undocumented immigrant students in Category I considered resident or nonresident students for classification purposes?*

Regardless of whether they are Category I (pre-HB1804) students or Category II (post-HB1804) students, persons without lawful permanent residence status in the United States, as defined by USCIS, are not eligible for classification as an Oklahoma resident. Establishment of eligibility for resident tuition (pre-HB 1804 and post-HB 1804) does not

give these students Oklahoma resident status. These students should be classified as nonresidents.

Category II: Students Enrolling in 2007-08 and Thereafter

For undocumented immigrant students enrolling for the first time in 2007-08 and thereafter, HB 1804 separates eligibility for resident tuition and eligibility for state financial aid. Eligibility for state financial aid is more restrictive than eligibility for resident tuition.

Eligibility for Resident Tuition for Category II Students

To be eligible for enrollment and resident tuition under HB 1804, a Category II undocumented immigrant student must:

1. have graduated from a public or private high school in Oklahoma (Note: GED or homeschool education will not establish eligibility for any student.);
2. have resided in Oklahoma with a parent or legal guardian while attending a public or private high school in Oklahoma for at least two (2) years prior to graduation;
3. satisfy admission standards, as determined by the State Regents, for the institution in which the student intends to enroll;
4. have secured admission and enrolled in an institution within The Oklahoma State System of Higher Education; and
5. do one of the following:
 - a. provide to the institution a copy of a true and correct application or petition filed with the United States Citizenship and Immigration Services to legalize the student's immigration status; or
 - b. file an affidavit (see Attachment B) with the institution stating that the student will file an application to legalize their immigration status at the earliest opportunity the student is able to do so, but in no case later than either: (a) one (1) year after the date on which the student enrolls for study at the institution; or (b) if there is no formal process to permit children of parents without lawful immigration status to apply for lawful status without risk of deportation, one (1) year after the United States Citizenship and Immigration Services (USCIS) provides such a formal process.

Students who file an affidavit must present to the institution a copy of a true and correct application filed with the USCIS no later than either: (a) one (1) year after the date on which the student enrolls for study at the institution; or (b) if there is no formal process to permit children of parents without lawful immigration status to apply for lawful status without risk of deportation, one (1) year after the United States Citizenship and Immigration Services (USCIS) provides such a formal process.

When a student provides or presents to the institution a copy of an application or petition filed with USCIS, the copy shall be maintained in the institution's records for that student.

Eligibility for State Financial Aid for Category II Students

In general, to be eligible for state financial aid under HB 1804 (there are exceptions per SB 820 for students participating in Oklahoma's Promise), a Category II undocumented immigrant student must:

1. have graduated from a public or private high school in Oklahoma (Note: GED or homeschool education will not establish eligibility for state financial aid for any student. This provision does not apply to homeschool students with respect to Oklahoma's Promise.);
2. have resided in Oklahoma with a parent or guardian while attending a public or private high school in Oklahoma for at least two (2) years prior to graduation (The part of this provision regarding attendance at a public or private high school in Oklahoma does not apply to homeschool students with respect to Oklahoma's Promise.);
3. satisfy admission standards, as determined by the State Regents, for the institution in which the student intends to enroll;
4. have secured admission and enrolled in an institution within The Oklahoma State System of Higher Education;
5. provide to the institution a copy of a true and correct application or petition filed with USCIS to legalize the student's immigration status. The affidavit which establishes eligibility for resident tuition does not establish eligibility for state financial aid. [Oklahoma's Promise students who enrolled in the program as 8th, 9th, or 10th-grade students on or before July 2, 2007 can establish eligibility for that program by filing an affidavit as explained in the section below on Oklahoma's Promise.]

Category II undocumented immigrant students who do **not** provide or present the institution with a copy of a true and correct application or petition filed with the USCIS are:

Not Eligible for*:

- Oklahoma Tuition Aid Grant (OTAG)
- Academic Scholars Program
- Oklahoma Tuition Equalization Grant (OTEG)
- Regional University Baccalaureate Scholarship
- National Guard Tuition Waiver
- Future Teachers Scholarship
- Tulsa Reconciliation Scholarship
- Any other state-funded scholarship
- Any institutional financial aid that is funded from institution or state sources, including tuition waivers (with the exception of concurrent enrollment tuition waivers and cooperative alliance fee waivers for secondary education students as noted below)

Eligible for*:

- financial aid that is funded only from private or non-state sources such as foundations
- concurrent enrollment tuition waivers and cooperative alliance fee waivers

**For students participating in Oklahoma's Promise, see the following section entitled, "Oklahoma's Promise."*

Frequently Asked Questions Related to Category II Students:

- *It appears that for Category II students, the GED is no longer acceptable for consideration of resident tuition or state financial aid (as it is/was for Category I students). Is this correct?*

Yes, HB 1804 eliminated the GED option for Category II students. Homeschool students are also not eligible for consideration for resident tuition or financial aid (except homeschool students participating in Oklahoma's Promise).

- *When do the new policies go into effect? Do the new restrictions impact financial aid that has already been awarded to Category II undocumented immigrant students for the Spring 2008 semester?*

HB 1804 and the State Regents' new policy became effective on November 1, 2007. The new laws and policy affect all financial aid awarded on or after November 1, 2007. If a Category II undocumented immigrant student was awarded state financial aid on an annual basis for the 2007-08 school year prior to November 1, 2007, the student should receive the aid as expected for the remainder of 2007-08 school year. For example, Category II undocumented immigrant students awarded the Oklahoma Tuition Aid Grant (OTAG) for the full 2007-08 award year will receive Spring 2008 semester awards (Category II students will not be eligible for spring-semester-only awards in 2008). The new laws and policy will impact OTAG applicants for the 2008-09 school year.

- *How does the new law affect financial aid awards for Category II students that were intended to be multi-year awards? For example, our institution offers a four-year tuition waiver scholarship based on merit. If a Category II undocumented immigrant student was initially awarded a scholarship in 2007-08 intended to extend beyond the 2007-08 school year, must they be denied the scholarship for the 2008-09 school year and subsequent school years?*

Yes. While Category I students and Oklahoma's Promise students benefit from certain "grandfathering" provisions, there are no "grandfathering" provisions for Category II undocumented immigrant students to receive any other form of state financial aid beyond the 2007-08 school year, including the multi-year-award programs like the Academic Scholars Program and the Regional University Baccalaureate Scholarship. Category II students must meet the new HB 1804 requirements for financial aid eligibility to continue receiving the awards after the 2007-08 school year.

Oklahoma's Promise

Oklahoma's Promise (Oklahoma Higher Learning Access Program) Per SB 820

Undocumented immigrant students participating in Oklahoma's Promise are treated uniquely under SB 820. Students in the program fall into two groups as described below.

Group A—*Students Enrolled in Oklahoma's Promise on or before July 2, 2007:* Undocumented immigrant students enrolled in Oklahoma's Promise as 8th-, 9th- or 10th-grade students on or before July 2, 2007, including current college students, are eligible to receive the award by providing or presenting a copy of an application or petition filed with USCIS **OR** by filing the Oklahoma's Promise affidavit (Attachment C). The Oklahoma's Promise affidavit is similar to the Category I affidavit (Attachment A) but differs in that it recognizes that Oklahoma's Promise students may be homeschooled. To qualify for resident tuition, Group A Oklahoma's Promise students will need to **also** file the Category I affidavit (Attachment A) or the Category II affidavit (Attachment B), whichever is applicable.

Group B—*Students Enrolled in Oklahoma's Promise after July 2, 2007:* Undocumented immigrant students may continue to enroll in Oklahoma's Promise as 8th-, 9th-, and 10th-grade students. However, all 8th-, 9th-, and 10th-grade students enrolling in Oklahoma's Promise after July 2, 2007 must be a United States Citizen or lawfully present in the United States at the time they enter college to receive the program award. For Group B students, neither the Oklahoma's Promise affidavit allowed for Group A students nor the copy of an application or petition filed with the USCIS will establish eligibility for the award. The institution must verify that the student is a U.S. citizen or lawfully present in the United States as defined by the USCIS, evidenced by whatever documents may be required under federal law. The first Group B students are expected to enter college in 2010 (see below).

Based on the categories defined above:

- All Oklahoma's Promise students eligible for the award in college in 2007-08 are in Group A.
- Oklahoma's Promise high school graduates of 2008 and 2009 are in Group A.
- 2010 Oklahoma's Promise high school graduates:
 - i. Those who enrolled in the 8th grade (2005-06) or 9th-grade (2006-07) are in Group A.
 - ii. Those who enrolled in the 10th grade (2007-08) are in Group B.
- 2011 Oklahoma's Promise high school graduates:
 - i. Those who enrolled in the 8th grade (2006-07) are in Group A.
 - ii. Those who enrolled in the 9th grade (2007-08) or 10th grade (2008-09) are in Group B.
- 2012 Oklahoma's Promise high school graduates and all graduates thereafter are in Group B.

Frequently Asked Questions Related to Oklahoma's Promise Students:

- *How will the institution know which Oklahoma's Promise students are in Group A vs. Group B?*

Prior to the first Group B students graduating high school in 2010, the State Regents will work to identify Group B students on the Oklahoma's Promise award eligibility list.

Contact Information for Questions:

For questions about the items addressed in this document please refer to the following list.

- For general questions about the legislation (HB 1804 and SB 820) or related State Regents' policy, contact Bob Anthony, General Counsel, at banthony@osrhe.edu or 405-225-9129.
- For specific questions related to eligibility for resident tuition, contact Gina Wekke, Assistance Vice Chancellor for Academic Affairs, at gwekke@osrhe.edu or 405-225-9142.
- For Oklahoma's Promise, contact Carol Alexander, Oklahoma's Promise Scholarship Coordinator, at calexander@osrhe.edu or 405-225-9160; or Bryce Fair, Associate Vice Chancellor for Scholarships and Grants, at bfair@osrhe.edu or 405-225-9162.
- For the Oklahoma Tuition Aid Grant (OTAG) or the Oklahoma Tuition Equalization Grant (OTEG), contact Shiela Joyner, Director of OTAG, at sjoyner@osrhe.edu or 405-225-9378.
- For all other state financial aid programs, contact Dr. Alicia Harris, Scholarship Programs Coordinator, at aharris@osrhe.edu or 405-225-9131.

**Attachment B – Sample Affidavit for Category II Students
For Students Enrolling in a Postsecondary Education Institution in 2007-08 and Thereafter**

In accordance with Title 70, O.S., Section 3242 (2007) (also known as HB1804 of the First Regular Session of the 51st Legislature), an individual who cannot present to the institution valid documentation of United States nationality or an immigration status permitting study at a postsecondary institution, but who has graduated from a public or private high school in Oklahoma, may be eligible for enrollment and resident tuition if the individual files the following affidavit with the institution:

AFFIDAVIT OF INTENT

STATE OF OKLAHOMA)
)
COUNTY OF _____)

Before me, the undersigned Notary Public, on this day personally appeared
(Name) _____ who,
being of lawful age and by me duly sworn upon his/her oath, deposed and said:

1. My name is _____. I am fully competent to make this affidavit. I have personal knowledge of the facts stated herein and they are all true and correct.
2. I have graduated from a public or private high school in Oklahoma.
3. I resided in Oklahoma with a parent or legal guardian while attending classes at a public or private high school in this state for at least two (2) years prior to graduation.
4. I will file an application to legalize my immigration status at the earliest opportunity that I am eligible to do so, but in no case later than (a) one (1) year after the date on which I enroll for study at the institution, or (b) if there is no formal process to permit children of parents without lawful immigration status to apply for lawful status without risk of deportation, one (1) year after the United States Citizenship and Immigration Services provides such a formal process.

In witness whereof, this _____ day of _____, _____.

(Printed Name of Student)

(Student I.D. # or other I.D. #, if applicable)

(Signature of Student)

(Signature of parent/guardian if student is under age 18)

SUBSCRIBED AND SWORN TO BEFORE ME, on the _____ day of _____, _____, to certify which witness my hand and official seal.

Notary Public in and for the State of Oklahoma

My commission expires _____

