

# HIGHER EDUCATION RIGHTS OF IMMIGRANTS IN

## MASSACHUSETTS

Immigrant youth who seek to attend a college in Massachusetts may have one or more of a range of immigration statuses or may simply be undocumented (i.e. unknown to immigration officials and lacking any valid documents permitting them to remain in the U.S.) Although each of these immigrants may be admitted to college, the affordability of attending college will often depend on his or her status, because the eligibility rules for in-state tuition, federal financial aid, state need-based aid, state merit-based aid, and private scholarships vary. These rules are explained below.

**1. Federal financial assistance eligibility to attend a public or private college.** Under 20 U.S.C. §1091, immigrants are eligible for federal financial aid if they are permanent residents or are deemed by the U.S. Department of Education to be here for other than a temporary purpose with the intention of becoming a citizen or permanent resident. A second federal law also requires an immigrant seeking a federal public benefit to be a “qualified alien.”<sup>1</sup> The U.S. Department of Education has interpreted these laws to allow only the following immigrant categories to qualify for federal financial aid:

- a) permanent residents;
- b) refugees, asylees, and pre-1980 conditional entrants;
- c) Cuban-Haitian Entrants;
- d) persons granted certain kinds of immigration “parole” for over one year;
- e) battered immigrants pursuant to the federal Violence Against Women Act (VAWA) provisions; and
- f) human trafficking victims pursuant to the federal Victims of Trafficking and Violence Prevention Act.

Further information about federal financial aid eligibility can be found in U.S. Department of Education resource materials, including the Federal Student Financial Aid Handbook, Ch. 2 (“Citizenship”), at [www.ed.gov](http://www.ed.gov).

**2. Eligibility to pay the in-state tuition rate at a Massachusetts public college (including a community college).** Because Massachusetts state law relies on “residence” in determining eligibility for in-state tuition, and undocumented immigrants are not considered state residents under a policy of the Massachusetts Board of Higher Education, they are ineligible for in-state tuition and must pay the higher out-of-state rate to attend Massachusetts public institutions, as must noncitizens who are present in the U.S. on a temporary tourist or foreign student visa or certain other temporary visas.<sup>2</sup> All other lawful immigrants, including the following, are permitted to establish Massachusetts state residence and qualify for in-state tuition:

- a) all of the immigrant listed above as eligible for federal financial aid;

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<sup>1</sup> 8 U.S.C. § 1641(b)

<sup>2</sup> Board of Higher Education, Residency Status for Tuition Classification Purposes, <http://www.mass.edu/bhe/lib/documents/2008-11-12ResidencyStatusforTuitionClassificationPurposeswithForm.pdf>

- b) grantees of Deferred Action for Childhood Arrivals (DACA);
- c) beneficiaries of Temporary Protected Status (TPS);
- d) beneficiaries of “withholding of removal” status; and
- e) immigrants issued Employment Authorization Documents because they have applied for asylum, withholding of removal, TPS, a U visa, or adjustment of status or other pathway to permanent residence, or who are issued an EAD on another permissible basis.

For more information, see Massachusetts Department of Higher Education web site at [www.mass.edu/bhe](http://www.mass.edu/bhe), for Tuition Rates and Policies and the Board of Higher Education; Residency Status for Tuition Classification Purposes [http://www.mass.edu/shared/admissions/residency\\_policy.pdf](http://www.mass.edu/shared/admissions/residency_policy.pdf); and Memorandum from Constantia T. Papanikolaou, Department of Higher Education General Counsel, “Residency Status for Tuition Classification Purposes—Deferred Action for Childhood Arrivals,” <http://www.mass.edu/bhe/lib/documents/DACAMemo11-21-12.pdf>

**3. Eligibility for the Massachusetts merit-based scholarship program, the John and Abigail Adams Scholarship, to attend a state college (including community college).** The Adams Scholarship is awarded to graduating Massachusetts high school students who scored in the top 25% of their school district on MCAS; it waives tuition for up to eight semesters at any Massachusetts public university, state college, or community college and must be used within six years of high school graduation. A Massachusetts Board of Higher Education Policy allows immigrants “authorized by the federal government to live and work in the United States on a temporary or permanent basis” to use this scholarship. This includes most of the immigrants listed above as eligible for federal financial aid and in-state tuition, such as DACA and TPS grantees and those issued Employment Authorization Documents but does not include undocumented students.

For more information, see Board of Higher Education, John and Abigail Adams Scholarship Guidelines, [http://www.mass.edu/bhe/lib/documents/FAAP/14a\\_FAAP%2016-12%20Adams%20Scholarship%20Guidelines%20Motion\\_10\\_15%20final.pdf](http://www.mass.edu/bhe/lib/documents/FAAP/14a_FAAP%2016-12%20Adams%20Scholarship%20Guidelines%20Motion_10_15%20final.pdf)

**4. Eligibility for Massachusetts state need-based financial aid programs.**

The Massachusetts Department of Higher Education requires a student seeking most forms of need-based state financial aid to be a state resident as well as a U.S. citizen or “eligible noncitizen,” and limits the “eligible noncitizen” categories to the same ones that qualify for federal financial aid, as listed above. Guidelines and program availability change periodically. *See* Massachusetts Department of Higher Education, Scholarship Guidelines & Financial Aid Policies at [www.mass.edu/bhe](http://www.mass.edu/bhe) and Massachusetts Office of Financial Aid, OSFA Guidelines at <http://www.mass.edu/osfa/home/home.asp>.

**5. Private scholarships to attend private or public college.** Funding from nongovernmental sources, such as a private scholarship, depends on the terms of the particular program, as no federal or state law restricts all such funding on the basis of immigration status. Every scholarship is different, and even undocumented immigrants may qualify for many of them. Some scholarships may restrict participation indirectly, for example if the scholarship offers or requires paid employment for which a recipient must be legally authorized to work in the U.S.

*For questions or further information, contact the Immigrants Protection Project at Massachusetts Law Reform Institute at (617) 357-0700 or visit [www.mlri.org](http://www.mlri.org).*