Armstrong Atlantic State University
Faculty Senate Resolution FSR-2014-03-24-01
Deferred Action

The attached Resolution is provided to the University President for informational purposes.

Delivered:

Signature: [Signature]
Date: 3/21/14

Please see attached Comments.

Received:

Signature: [Signature]
Date: 4/17/15

Dr. Linda M. Bleicken, President
Armstrong Atlantic State University
Faculty Senate Resolution: Deferred Action Status for Undocumented Students

Be it resolved that the Faculty Senate recommends that Armstrong Atlantic State University and the Georgia State Legislature grant undocumented students with Deferred Action in-state tuition in accordance with Georgia Regents Policy Manual 4.3.4 (Verification of Lawful Presence).

Policy 4.3.4:
Each University System institution shall verify the lawful presence in the United States of every successfully admitted person applying for resident tuition status, as defined in Section 7.3 of this Policy Manual, and of every person admitted to an institution referenced in Section 4.1.6 of this Policy Manual.

Section 7.3.1.1:
In-State Tuition shall be defined as the rate paid by students who meet the residency status requirements as provided in Section 4.3 of this Policy Manual."

Rationale:

According to the Department of Homeland Security: As of January 18, 2013
"An individual who has received deferred action is authorized by the Department of Homeland Security (DHS) to be present in the United States, and is therefore considered by DHS to be lawfully present during the period deferred action is in effect;” thus, the requirements for lawful presence put forth under Policy 4.3.4 by the Board of Regents, Verification of Lawful Presence, are met. Undocumented students, with Deferred Action, should then, be allowed to pay in-state tuition at Armstrong Atlantic State University in accordance with Board of Regents Policy.

The Board of Regents states that "any student requesting to be classified as an in-state student for tuition purposes will be required to provide verification of their lawful presence in the United States in order to be classified as an in-state student.” In order to verify lawful presence, the Board of Regents, on its website under its FREQUENTLY ASKED QUESTIONS section states that:

“There are a number of ways for a student’s lawful presence in the United States to be verified. In some instances, the student will not need to submit any additional documentation. For example, if the student completes the Free Application for Federal Student Aid (FAFSA), and the U.S. Department of Education determines that the student is eligible to receive federal student aid, then the student may not need to submit additional documentation as the U.S. Department of Education verifies lawful presence before awarding aid.”

In other situations, a student may need to provide documentation of lawful presence, such as a copy of their U.S. birth certificate (certified copy), Georgia driver’s license (issued after January 1, 2008), United States passport, or Permanent Resident Card, as proof of lawful presence. Students should contact their college or university to learn more about what documentation they may need to submit.” Thus, by Board of Regents policy, undocumented students with Deferred Action are entitled to receive in-state tuition at Armstrong Atlantic State University.
Georgia Board of Regents Policy Manual Section 4.3

4.3 Student Residency
4.3.1 Out-of-State Enrollment

Each USG institution is required to file an annual report detailing the number of out-of-state students enrolled during the previous academic year (BoR Minutes, April, 1995, p. 21)

4.3.2 Classification of Students for Tuition Purposes

4.3.2.1 Description of Terms Used in the Policy
Terms used in the Tuition Classification Policy not found below can be found in the Glossary of Terms for Classification of Students for Tuition Purposes.

Dependent Student
An individual under the age of 24 who receives financial support from a parent or United States court appointed legal guardian.

Emancipated
A minor who, under certain circumstances, may be treated by the law as an adult. A student reaching the age of 18 shall not qualify for consideration of reclassification by virtue of having become emancipated unless he/she can demonstrate financial independence and domicile independent of his/her parents.

Independent Student
An individual who is not claimed as a dependent on the federal or state income tax returns of a parent or United States court appointed legal guardian, and whose parent or guardian has ceased to provide support and rights to that individual’s care, custody, and earnings.

4.3.2.2 United States Citizens
Independent Students
An independent student who has established and maintained a domicile in the State of Georgia for a period of at least twelve (12) consecutive months immediately preceding the first day of classes for the term shall be classified as in-state for tuition purposes.

No student shall gain or acquire in-state classification while attending any postsecondary educational institution in this state without clear evidence of having established domicile in Georgia for purposes other than attending a postsecondary educational institution in this state.

If an independent student classified as in-state for tuition purposes relocates out of state temporarily but returns to the State of Georgia within twelve (12) months of the relocation, such student shall be entitled to retain his/her in-state tuition classification.

Dependent Students
A dependent student shall be classified as in-state for tuition purposes if such dependent student’s parent has established and maintained domicile in the State of Georgia for at least twelve (12) consecutive months immediately preceding the first day of classes for the term and:
1. The student has graduated from a Georgia high school; or,
2. The parent claimed the student as a dependent on the parent’s most recent federal or state income tax return.

A dependent student shall be classified as in-state for tuition purposes if such student’s United States court-appointed legal guardian has established and maintained domicile in the State of Georgia for at least twelve (12) consecutive months immediately preceding the first day of classes for the term, provided that:

1. Such appointment was not made to avoid payment of out-of-state tuition; and,
2. The United States court-appointed legal guardian can provide clear evidence of having established and maintained domicile in the State of Georgia for a period of at least twelve (12) consecutive months immediately preceding the first day of classes for the term.

If the parent or United States court-appointed legal guardian of a dependent student currently classified as in-state for tuition purposes establishes domicile outside of the State of Georgia after having established and maintained domicile in the State of Georgia, such student may retain his/her in-state tuition classification so long as such student remains continuously enrolled in a public postsecondary educational institution in this state, regardless of the domicile of such student’s parent or United States court-appointed legal guardian.

4.3.2.3 Non-Citizens
A non-citizen student shall not be classified as in-state for tuition purposes unless the student is legally in this state and there is evidence to warrant consideration of in-state classification as determined by the Board of Regents. Lawful permanent residents, refugees, asylees, or other eligible noncitizens as defined by federal Title IV regulations may be extended the same consideration as citizens of the United States in determining whether they qualify for in-state classification.

International students who reside in the United States under non-immigrant status conditioned at least in part upon intent not to abandon a foreign domicile shall not be eligible for in-state classification.

4.3.3 Tuition Differential Waivers

See Section 7.3.4 of this Policy Manual for instances in which an institution may waive the differential between in-state and out-of-state tuition.

4.3.4 Verification of Lawful Presence

Each University System institution shall verify the lawful presence in the United States of every successfully admitted person applying for resident tuition status, as defined in Section 7.3 of this Policy Manual, and of every person admitted to an institution referenced in Section 4.1.6 of this Policy Manual.
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As I have stated publicly on numerous occasions, I favor a less-restrictive policy as it relates to undocumented students. Change, however, must begin at the state level.

Here is the current policy within which we operate:

Armstrong welcomes students from Georgia, from other states, and from nations around the world. No student is required to present documentation that they are legally within the United States in order to be admitted to Armstrong. Admitted students are classified as in-state, and thus eligible for tuition rates applicable to that classification, or out-of-state, and thus subject to the significantly higher tuition rates applicable to students in that group. Various institutional and USG policies govern this classification, but the genesis of these rules is the state law. In particular, Georgia’s General Assembly\(^1\) requires any applicant who seeks classification as an in-state student, and who is not a citizen of the United States, to provide evidence that they are “legally in this state.” If the applicant does not or cannot provide evidence, the applicant will be subject to out-of-state tuition rates. Because the rules for in-state/out-of-state classification are embodied in state law, neither Armstrong nor the USG may adopt policies or procedures contrary to those rules.

Linda M. Bleicken
April 18, 2014

\(^1\) Official Code of Georgia Annotated, Section 20-3-66(d), which states in pertinent part, “Noncitizen students shall not be classified as in-state for tuition purposes unless the student is legally in this state and there is evidence to warrant consideration of in-state classification as determined by the board of regents.” Similar language is found in Section 4.3.2.3 of the Board of Regents Policy Manual.