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Court Sides with UNT by Reversing Anti-Immigrant Tuition Challenge Fifth Circuit Court Order

IDRA & Presidents' Alliance React to *Young Conservatives of Texas v. Neal Smatresk et al.*

(San Antonio • July 11, 2023) Yesterday, the U.S. Court of Appeals for the Fifth Circuit released its [decision](#) in *Young Conservatives of Texas v. Neal Smatresk et al.* In a unanimous opinion, the Court reversed a federal district court's decision barring the University of North Texas (UNT) from collecting nonresident tuition from out-of-state students. The Court rejected the Young Conservatives of Texas (YCT) assertion that a 1996 federal immigration law preempted the challenged Texas tuition statute.



"The Fifth Circuit properly rejected the invitation to uphold the Young Conservatives of Texas' thinly veiled anti-immigrant attack on the *Texas Dream Act* in this case," said **Paige Duggins-Clay, J.D., IDRA Chief Legal Analyst**. "Since Gov. Rick Perry signed the *Texas Dream Act* in 2001, a broad coalition of Texas business, community, university, and student leaders have come together to support it in recognition that Texas high school graduates, regardless of immigration status, deserve an equal opportunity to go to college and that they contribute significantly to our state's economy. IDRA was proud to represent those

groups in this case and will continue our 50-year legacy of ensuring that all students have access to excellent educational opportunities.”

Although the now-reversed district court’s order did not eliminate access to in-state tuition for immigrant students, the injunction prohibited UNT from collecting out-of-state tuition for non-resident citizens at UNT as long as the *Texas Dream Act* (which provides a path for undocumented students to become eligible for in-state tuition) is in effect. The lower court’s ruling [cost UNT millions and threatened to compromise](#) the integrity of the Texas higher education funding system.

“The unanimous Fifth Circuit Court’s decision upholds the rule of law,” **said Miriam Feldblum, executive director of the Presidents’ Alliance.** “Beyond the ruling itself, we will continue to focus on preserving in-state tuition access for undocumented students. The state’s affirmative state policies that allow Texas’s Dreamers – who have grown up in the state and graduated high school there – to access in-state tuition and financial aid positively impact Texas’ economic growth, workforce development, retention of talent, entrepreneurship, innovation, and its competitive advantage.”



While the Court’s opinion did not address the constitutionality of other unchallenged provisions of Texas’ tuition statute, we must remain vigilant in our collective efforts to protect immigrant students’ access to college. Strong legal foundations exist that allow states to affirmatively extend in-state tuition to undocumented students on a variety of non-residency requirements. The [Texas state law](#) extends in-state tuition eligibility to undocumented students if they meet a number of requirements, including graduating from a Texas high school (or equivalent). Currently, [23 states and D.C., including Arizona, California, Florida, and Utah](#), have also extended in-state eligibility to their states’ undocumented students.

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[IDRA](#) is a national independent, non-profit organization. Our mission is to achieve equal educational opportunity for every child through strong public schools that prepare all students

to access and succeed in college.

The nonpartisan, nonprofit [Presidents' Alliance on Higher Education and Immigration](#) brings college and university presidents and chancellors together on the immigration issues that impact higher education, our students, campuses, communities, and nation. They work to advance just, forward-looking immigration policies and practices at the federal, state, and campus levels that are consistent with our heritage as a nation of immigrants and the academic values of equity and openness. The Alliance is composed of over 550 presidents and chancellors of public and private colleges and universities, enrolling over 5 million students in 43 states, D.C., and Puerto Rico.



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