Dr. Charles W. Contéro-Puls
Assistant Commissioner for Student Financial Aid Programs
P.O. Box 12788
Austin, Texas 78711-2788

Dear Dr. Contéro-Puls:

Thank you for the opportunity to provide public written comments on the proposed rules published on August 29, 2025 in the Texas Register. The undersigned organizations and persons oppose the adoption of proposed rule 19 TAC §13.465(c). We urge the Texas Higher Education Coordinating Board (THECB) to eliminate this rule.

19 TAC §13.465(c)

This proposed rule purports to comply with the June 5, 2025 ruling limiting in-state tuition under Texas Education Code 54.052(a)(3) to students who are lawfully present.[1] However, the rule goes beyond the spirit and scope of the court ruling and should not be adopted. The consent decree was based on the legal theory that Sec. 54.052(a)(3) provided benefits to undocumented Texas students that were not provided to residents of other states in violation of 8 USC. §1623 [2]

In contrast, tuition waivers for students without lawful presence do not violate the federal statute. The statute prohibits a student, not lawfully present, from receiving an "educational benefit unless a citizen or national of the United States is eligible for such a benefit…. without regard to whether the citizen or national is such a resident."[3] In fact, many tuition waivers are necessarily available *only* to non-resident students or to all students.[4] By affording Texas students who cannot show lawful presence the possibility of a tuition waiver, institutions are treating these two populations--out-of-state residents and undocumented Texas high school graduates--exactly the same. Thus, this proposed rule is an overbroad and incorrect reading of the federal statute, as well as the initial court opinion and the subsequent opinion denying Intervenors' Motions, both of which focused on the disparate impact on Texas Dream Act students and out-of-state students.[5]

---

[1] *United States v. Texas*, No. 7:25-cv-00055-O (N.D. Tex. June 4, 2025).

[2] The undersigned do not agree with the legal basis of the order nor the collusive, accelerated manner in which the order was procured.

[3] 8 USC §.1623.

[4] *See*, *e.g.* Texas Education Code Sec. 54.213 (competitive scholarships limited to 5% of the student population); Proposed Rule §13.478. The breadth of the rule would, for example, exclude foster care children without lawful presence. Texas Education Code.Sec. 54.366. An absurd result of this rule is its potential application to students from border states who are eligible to pay in-state tuition. Texas Education Code Sec. 54.231. Certainly, that tuition waiver does not run afoul of 8 USC § 1623.

[5] *United States v. Texas,* supra; Order denying Intervention, Document 88 Filed 08/15/25 Page 1 of 12 PageID 713.

In addition, this rule limits one of the few options available to deserving Texas students, who will contribute to the state's economy, the labor market, state and local tax bases, and their communities. For example, a small number of currently-enrolled college students who cannot show lawful presence and who have already invested so much in their educational future, can benefit from tuition waivers. These waivers mitigate the profound disruption the court decision has caused to their education and their future aspirations. The waivers also minimize the harm to their reliance interests from the abrupt change in their tuition rates and financial aid, making college unaffordable and inaccessible to them.[6] Waivers can also make higher education accessible to incoming Texas students.

Thank you for your consideration of our public comments. We look forward to a public hearing to provide additional testimony. As the state's highest authority in public higher education, the Coordinating Board has a responsibility to uphold its mission as a resource, partner, and advocate for Texas students. Ensuring consistent and lawful implementation must remain central priorities as these rules are finalized. We urge the Board to ensure that any final rules support safe, equitable access to higher education, in alignment with the Board's mandate to advance a globally competitive workforce and to serve the best interests of Texas students and families while ensuring the safety and integrity of higher education institutions.

Sincerely,

Kristin Etter, Texas Immigration Law Council
Chloe Latham Sikes, IDRA
Stephen Reeves, Fellowship Southwest
Luis Figueroa, Every Texan
Will Davies, Breakthrough Central Texas
Barbara Hines, Attorney at Law
Chelsie Kramer, Texans for Economic Growth
Trudy Taylor Smith, Children's Defense Fund-Texas
Cairo Mendes, Grantmakers Concerned with Immigrants and Refugees (GCIR)
Maria Ramirez Campos
Zabdi Salazar
Eva Sikes
Ilene Cruz
Monica Pepping, RISE for Immigrants
Jonathan Feinstein, EdTrust in Texas
Sonia Rivera Suire, RISE for Immigrants
Raymond Suire
Raul Lomeli-Azoubel
Rebecca Aronson

[6] 126 F.4th 392 at 422 (5th Cir. 2025), citing Texas II, 50 F. 4th 498 at 531 (5th Cir. 2022).

Neel Lane
Eric Holguin, UnidosUS (formerly National Council of La Raza)
Maximiliano Prado, Laredo Immigrant Alliance
Tannya Benavides, Local Progress Texas (signing on behalf of Local Progress Texas, not as an individual)
Britni Cuington, Common Defense
Cristian Sanchez, Individual
Julieta Garibay, IDRA