

In-state rates for illegal immigrants attacked

By SUSAN CARROLL
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Attorneys for an anti-illegal immigration organization are challenging a Texas state law that allows illegal immigrant students to attend colleges and universities at in-state rates, saying it violates federal law.

David A. Rogers, a lawyer for the Immigration Reform Coalition of Texas, an organization that opposes illegal immigration, said the lawsuit filed on Monday in Harris County District Court marks the first direct court challenge of the Texas law.

Texas is one of 10 states in the nation that have laws offering in-state tuition to illegal immigrants who meet certain criteria, including graduating from a local high school and pledging to legalize their immigration status as soon as possible.

The lawsuit specifically names the University of Houston, Houston Community College and Lone Star College systems. A spokesman for UH declined to comment on Tuesday, citing the pending litigation. HCC officials said a copy of the lawsuit was under review by their attorneys. A Lone Star spokesman said the college was not prepared to comment Tuesday afternoon.

Injunction requested

In the lawsuit, the plaintiffs allege that at least 8,000 illegal immigrants attend Texas colleges and universities at discounted tuition rates for in-state residents or receive some form of state financial aid, saying the statute violates federal law. The lawsuit also requests an injunction barring illegal immigrants from receiving the in-state break on tuition or state-funded financial aid.

"We don't think that taxpayers should break federal law in order to subsidize people who are in the United States illegally," Rogers said.

Michael A. Olivas, a University of Houston law professor who specializes in higher education and immigration issues, said that the lawsuit filed Monday was based on a flawed reading of federal statutes and the Texas residency law.

In 2001, Texas became the first state in the country to pass a law that allowed undocumented students to pay in-state rates and possibly receive state financial aid, provided they meet certain criteria.

Since then, California, Illinois, Kansas, Nebraska, New Mexico, New York, Utah, Washington and Wisconsin have passed similar laws. Oklahoma also approved a bill granting in-state tuition to

undocumented students, but it later was rescinded and now only covers those grandfathered under the now-defunct statute.

Four states, including Arizona, have laws on the books that ban illegal immigrants from receiving in-state tuition.

Federal law cited

Olivas, who helped then-Rep. Rick Noriega, a Houston Democrat, draft Texas' original statute, said federal law clearly allows states to pass their own legislation regarding in-state residency for undocumented students.

Olivas also cited a 2008 letter from the Department of Homeland Security to the North Carolina Attorney's General office that said federal law does not prohibit the admission of undocumented students to universities and colleges.

“The state can, and did act properly, and the statute is constitutional,” said Olivas, who also served as an expert witness when a similar law was later challenged in Kansas.

Cesar Espinosa, a Houston immigrant advocate, said Texas' law has led to success stories for students who otherwise might not be able to afford higher education, even though they spent years in the K-12 public school system.

“We're hoping that the lawsuit doesn't go far,” Espinosa said. “The reason many students who are undocumented finish high school is because they know there is an opportunity to go on with their studies. If we want to keep students engaged, we have to have a means for them to continue with their education.”