



# House Bill 131 Analysis (LC 49 1187)

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## BACKGROUND

In 2012, the United States Department of Homeland Security issued the Deferred Action for Childhood Arrivals (DACA) policy that allows young unauthorized immigrants to remain in the country with temporary lawful status.<sup>1</sup> Georgia is home to an estimated 36,395 DACA eligible residents.<sup>2</sup> According to the U.S. Citizenship and Immigration Services, 19,310 are active DACA recipients as of September 30, 2022.<sup>3</sup>

DACA changed thousands of undocumented people's lives, allowing a number of them to obtain social security cards and driver's licenses, pursue schooling and gainful employment. Yet, despite paying taxes in Georgia, Georgia DACA residents are barred from paying in-state tuition in higher education. Currently twenty-three states and the District of Columbia allow undocumented college students to pay in-state tuition,<sup>4</sup> Another seven states limit in-state tuition to DACA recipients.<sup>5</sup> Georgia is one of six states that bars undocumented immigrants from paying in-state tuition,<sup>6</sup> forcing many to pay out-of-state tuition despite being long-time Georgia residents. House Bill 131, the "Opportunity Tuition Act," would create a category of tuition for DACA recipients. The tuition rate, called an "opportunity tuition," would be no less than 110 percent of in-state tuition. The legislation applies to both the University System of Georgia and the Technical College System of Georgia institutions.

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<sup>1</sup> "Subject: Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children". United States. Department of Homeland Security.. 2012.  
<https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.

<sup>2</sup> "New Americans in Georgia" American Immigration Council.  
<https://map.americanimmigrationcouncil.org/locations/georgia/#dacaEligible>.

<sup>3</sup> "Count of Active DACA Recipients By Month of Current DACA Expiration As of September 30, 2022" U.S. Citizen and Immigration Services.  
[https://www.uscis.gov/sites/default/files/document/data/Active\\_DACA\\_Recipients\\_Sept\\_FY22\\_qtr4.pdf](https://www.uscis.gov/sites/default/files/document/data/Active_DACA_Recipients_Sept_FY22_qtr4.pdf).

<sup>4</sup> "Basic Facts About In-State Tuition for Undocumented Immigrant Students". National Immigration Law Center.  
<https://www.nilc.org/issues/education/basic-facts-instate/>.

<sup>5</sup> Id.

<sup>6</sup> "Tuition Benefits for Immigrants". National Conference of State Legislators.  
<https://www.ncsl.org/immigration/tuition-benefits-for-immigrants>.

## KEY TAKEAWAYS:

- HB 131 creates an opportunity tuition rate for DACA Georgia students at public universities and technical colleges that is no less than 110 percent of in-state tuition, instead of out-of-state tuition, which is three to four times higher.
- Schools shall consider the application of in-state opportunity students only after in-state and out-of-state applicants are either admitted, deferred, or rejected.
- DACA recipients or their guardian parents have to establish continuous state residency since 2013 to qualify for opportunity tuition, which is longer than the 12 consecutive months that others who are citizens, Long-term Permanent Residents (LPR), refugees, or asylees must establish
- Not included are undocumented immigrants who are non-DACA recipients despite being long-time residents of Georgia.
- DACA students may only attend 'eligible units' of the University System of Georgia (USG) and Technical College System of Georgia (TCSG), which are schools that have admitted all qualified applicants for two preceding academic years. This currently excludes the University of Georgia, Georgia Institute of Technology, and Georgia College and State University.

## BILL SUMMARY:

The bill requires a student to meet five conditions in order to be categorized as an opportunity student.

1. The student must be a verified recipient of DACA, which means, among other requirements, that the person came to the United States before they were 16 and was no older than 30 by June 15, 2012.
2. The student has to have graduated from a Georgia high school or obtained a state approved high school equivalency (HSE) diploma. This requirement is similar to the ones for students who are citizens, legal permanent residents (LPR), refugees, asylees, or other eligible noncitizens.<sup>7</sup>
3. The student has to have lived in Georgia since January 1, 2013 up through the time of attendance, or is the dependent of a parent who meets this residency requirement. The January 1, 2013 date is approximately six months after the executive order that created DACA.

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<sup>7</sup> "Board of Regents Policy Manual". Official Policies of the University System of Georgia. <https://www.usg.edu/policymanual/section4/C329/#::~:~:text=2.2%20United%20States%20Citizens&text=An%20independent%20student%20who%20has,in%2Dstate%20for%20tuition%20purposes.>

4. The student must not be a nonimmigrant alien, which is defined as foreign nationals who do not have a green card and are lawfully admitted as tourists, workers, students, and others, as well as diplomats and their family members.
5. The students must not have been convicted of a felony, serious misdemeanors, or excessive misdemeanors, which is also a requirement of DACA.

The bill also codifies another Board of Regents rule mandating that University System of Georgia or Technical College System of Georgia admit all academically qualified applicants for the two most recent academic years in order to be considered an 'eligible unit' for DACA or other undocumented immigrants. Per the Georgia State Board of Regents policies, ineligible institutions include The University of Georgia, Georgia Institute of Technology, and Georgia College & State University. Additionally, both in-state and out-of-state applicants must all be categorized as accepted, deferred, or rejected before an institution can consider an opportunity student for admittance.

The bill states that opportunity students shall receive the opportunity tuition rate for seven years following their first year of admission to an eligible unit of the University System of Georgia, regardless of whether they later attend another eligible unit of the University System of Georgia.

The bill also maintains the definition of a "student from a homeless situation" (who are eligible for in-state tuition) for USG and applies it to TCSG schools for in-state tuition consideration. A "student from a homeless situation" is defined as someone who is able to independently verify that they lack an adequate and stable home; who graduated from a Georgia high school or received a comparable degree, and is who is under the age of 24. Additionally, time spent in a correctional facility for a criminal conviction would not count as having been homeless.

## **IMPACT AND WHO IS LEFT OUT:**

An affordable opportunity tuition rate could allow DACA recipients to pursue an education that would otherwise be cost prohibitive since out-of-state tuition rates can be three times the cost of in-state tuition. Three tables in Appendix B, C, and D provide examples of savings that could help provide economic relief for DACA students if the opportunity tuition is kept at 110 percent of in-state tuition.

However, Georgia is home to an estimated 339,000 residents without legal status.<sup>8</sup> This population is diverse, and barriers impact a wide range of people in Georgia: 69 percent of undocumented Georgians originated from Mexico and Central America

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<sup>8</sup> "Profile of the Unauthorized Population: Georgia". Migration Policy Institute.  
<https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/GA>.

and 14 percent from Asia (see Appendix A). Approximately 68,000 undocumented immigrants in the state are under the age of 24,<sup>9</sup> many of whom do not receive DACA protection.

As the bill is restricted to DACA recipients, this leaves a large financial barrier for the majority of undocumented people in pursuing higher education. Given that DACA recipients range from the age of 15 to 41 in 2023, HB 131 would become less impactful as the population ages and does not account for undocumented immigrants who have since, similarly, come to the United States at a young age and do not currently have access to DACA. Despite some benefits, the bill is by nature both short-term and limited.

## **CONCLUSION AND RECOMMENDATIONS:**

HB 131's limited scope of applying only to DACA recipients would render the bill obsolete in a matter of years. Also, holding applicants to disparate standards puts certain students at a disadvantage in their educational pursuits, which serves no interest of the state as a whole. An ideal bill would be inclusive of all undocumented students with Georgia residency, allowing them to pay in-state tuition with the same criteria as any other Georgian. To do this, we offer the following recommendations:

- Provide access to in-state tuition to all Georgia residents regardless of immigration status.
  - An opportunity tuition could be a step in the right direction, however, it creates an unnecessary class of students that is based on immigration status instead of Georgia residency. Offering in-state tuition to state residents ensures that Georgia keeps pace with the other 23 states and DC that offer in-state tuition based on state residency instead of immigration status.
  - A minimum tuition rate with no top range is a dangerous proposition where an "opportunity tuition" could be even higher than out-of-state tuition
- Eliminate requirements that schools admit all other qualified applicants for the preceding two academic years and give preferential consideration to in-state and out-of-state applicants.
  - These requirements limit which schools opportunity students can attend while also making the admissions process difficult to execute for schools. Opportunity students deserve to be considered based on the merit of their application, not their immigration status.
- Shorten residency requirement.

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<sup>9</sup> Id.

- United States citizens and other eligible noncitizens (such as LPRs, refugees, or asylees) only have to establish one year of residency in the state to qualify for in-state tuition.<sup>10</sup> In-state undocumented students should be held to the same criteria as other in-state applicants who only have to establish 12 months of residency to qualify for in-state tuition. . This would open up the opportunity tuition rate to DACA recipients who have relocated to Georgia from another state after January 1, 2013, but fulfilled other conditions, such as having graduated from a Georgia high school.

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<sup>10</sup>“Board of Regents Policy Manual”. Official Policies of the University System of Georgia.  
<https://www.usg.edu/policymanual/section4/C329/#:~:text=2.2%20United%20States%20Citizens&text=An%20independent%20student%20who%20has,in%2Dstate%20for%20tuition%20purposes>.

# APPENDICES:

## Appendix A

Regions of Origin of Undocumented Immigrants in Georgia <sup>11</sup>		
Regions of Birth	Count	Percentage
Mexico & Central America	235,000	69%
Caribbean	7,000	2%
South America	25,000	7%
European/Canada/Oceania	11,000	3%
Asia	47,000	14%
Africa	14,000	4%

## Appendix B

FLAT TUITION MODEL <sup>12</sup>			
	In-State Tuition FY 2023	Opportunity Tuition at 110% of in-state tuition	Out-of-State Tuition FY 2023
<b>Augusta University - Health Science Campus</b>			
10 hours or more	\$4,432	\$4,875.20	\$14,189.00
9 hours or less (per credit hour)	\$295.27	\$324.80	\$945.93

## Appendix C

<sup>11</sup> "Profile of the Unauthorized Population: Georgia". Migration Policy Institute.

<https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/GA>.

<sup>12</sup> "University System of Georgia Tuition Rates Per Semester - Fiscal Year 2023 Effective Fall Semester". University System of Georgia.

[https://www.usg.edu/fiscal\\_affairs/assets/fiscal\\_affairs/documents/tuition\\_and\\_fees/FY\\_2023\\_Tuition\\_Rates.pdf](https://www.usg.edu/fiscal_affairs/assets/fiscal_affairs/documents/tuition_and_fees/FY_2023_Tuition_Rates.pdf).

<b>REGULAR TUITION MODEL (Per credit hour rates apply up to 15 hours)<sup>13</sup></b>			
	<b>In-State FY 2022</b>	<b>Opportunity Tuition at 110% of in-state tuition</b>	<b>Out-of-State FY 2023</b>
<b>Perimeter College at Georgia State University</b>	\$1,425.00	\$1,567.50	\$5,395.00
Per Credit Hour	\$95.00	\$104.50	\$359.67

#### Appendix D

<b>Central Georgia Technical College<sup>14</sup></b>			
Tuition and Fees: Academic Year 2022-2023			
<b>Credit Hours</b>	<b>In-State Tuition</b>	<b>Opportunity Tuition at 110% of In-State</b>	<b>Out-of-State Tuition</b>
1	\$100	\$110	\$200
2	\$200	\$220	\$400
3	\$300	\$330	\$600
4	\$400	\$440	\$800
5	\$500	\$550	\$1,000
6	\$600	\$660	\$1,200
7	\$700	\$770	\$1,400
8	\$800	\$880	\$1,600

<sup>13</sup> id

<sup>14</sup> "Paying for College, Tuition and Fees Fall Semester 2022 - Summer Semester 2023." Central Georgia Technical College. [https://www.centralgatech.edu/wp-content/uploads/pdfs/finaid/TuitionAndFeesSchedule\\_2022-2023.pdf](https://www.centralgatech.edu/wp-content/uploads/pdfs/finaid/TuitionAndFeesSchedule_2022-2023.pdf).

9	\$900	\$990	\$1,800
10	\$1,000	\$1100	\$2,000
11	\$1,100	\$1,210	\$2,200
12	\$1,200	\$1,320	\$2,400
13	\$1,300	\$1,430	\$2,600
14	\$1,400	\$1,540	\$2,800
15	\$1,500	\$1,650	\$3,000