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Judge: Dreamers can get in-state tuition in Arizona

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By Bob Christie, Associated Press

PHOENIX (AP) - Young immigrants granted deferred deportation status by the Obama administration are eligible for in-state college tuition, a Maricopa County judge ruled Tuesday.

The decision from Superior Court Judge Arthur Anderson comes in a lawsuit filed by former Attorney General Tom Horne against the Maricopa County Community College District. Horne contended that so-called "dreamers" offered deferred action status were not legally present in the U.S. and could not get state benefits because of a 2006 voter-enacted law known as Proposition 300.

But Anderson's ruling said Proposition 300 doesn't bar public benefits for immigrants lawfully in the U.S., and the federal government considers recipients of deferred action lawfully present. Thus, they can get lower in-state tuition, he ruled.

"Federal law, not state law, determines who is lawfully present in the U.S.," Anderson wrote. "The state cannot establish subcategories of 'lawful presence,' picking and choosing when it will consider DACA recipients lawfully present and when it will not."

The ruling only applies to Maricopa County Community Colleges and does not set statewide legal precedent. But it could help back up arguments by other colleges. Pima Community College offers in-state tuition for deferred action students, and state university regents are considering a lower tuition rate for them that is above in-state rates.

"Obviously for the universities and for community colleges districts right now, it's certainly valid for them to view this as something that does have some precedential value to them in terms of the fact that it is construing a state statute," said Lynne Adams, the attorney who represented the college district in the case.

President Barack Obama created the Deferred Action for Childhood Arrivals, or DACA, program in 2012 for young people who had been brought to the United States illegally as children.

The community college district began offering lower in-state tuition to DACA recipients shortly after Obama's action, and Horne challenged it in court.

College district Chancellor Rufus Glasper said he knows the state disagreed with the district's decision to offer lower tuition to dreamers. "And what we asked for initially is let someone independent of the two different parties make that judgment, and the judge did that today," Glasper said.

Enrollment dropped by more than 10,000 students when the district implemented state rules on legal status required by Proposition 300, he said. Costs went from \$91 per credit hour to \$314 credit hour, with full-time student taking 30 units per year.

Glasper said about 1,200 students are getting lower tuition under the DACA guidelines and more are out there. "So we believe that our students benefit from

this, and I believe those other additional DACA students out there can see this as an opportunity and return back to our campuses," he said.

A spokeswoman for current Attorney General Mark Brnovich released this statement on the ruling:

"No one is more sympathetic to the cause of immigration than General Brnovich, but the law is the law. General Brnovich believes he has an obligation to respect the will of Arizona voters. Our office is currently reviewing the decision and weighing all legal options including appeal."

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The ruling comes one day after the state university Board of Regents advanced a proposal to provide dreamers with lower non-resident tuition. But the regents' plan falls short of offering in-state tuition, and they contend that requiring deferred action students to pay 150 percent of that rate covers the complete cost of their education without using state money.

A DREAMer's story

"I'm a dreamer, I'm disabled, I'm the definition of minority," said Cesar Calderon, who is partially paralyzed from a 2006 traffic crash.

While in a coma, he was deported back to Mexico. His single mother of five somehow brought him back and he was able to graduate high school in Arizona. Now, it's time for college, but his disability has proven difficult to fund because it's hard to work, until now.

We met up with Calderon and Arizona Dreamers Coalition advocate Erika Andiola on the campus of Mesa Community College where Calderon is already enrolled but couldn't afford the classes. Today, they came back to discuss finance options.

If you'd like to donate to his fund, visit <http://www.gofundme.com/64fhkc>.

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