

## Qualifying Immigration Statuses

To be accorded resident status, a student who is not a U.S. citizen must present valid evidence, issued by the U.S. Department of Homeland Security - U.S. Citizenship and Immigration Services ("USCIS"), indicating that he/she is in a qualifying immigration status. Samples of the many immigration documents that CUNY accepts as proof of immigration status are included.

Undocumented and out-of-status immigrants, while not eligible to be considered "residents", may nevertheless be entitled to pay the resident tuition rate if they attended and graduated from high school or received a GED in New York State. See Part I, Section B below.

The following categories of students are in qualifying immigration statuses:

### 1. Students Who Are Lawful Permanent Residents (Resident Aliens)

There are two acceptable methods for verifying status as a lawful permanent resident. A student who has requested Federal financial aid, which has been verified by the Federal Financial Aid Central Processor, has his/her status automatically matched by the USCIS. This will be evident through the University's coding of the student as a lawful permanent resident. In such cases, there is no need for a student to submit a Permanent Resident Card (Formerly, the Alien Registration Card or commonly referred to as a Green Card) or any other form of documentation regarding permanent residence. A student whose permanent residence status is not confirmed through the above match must provide one of the following proofs to verify his/her status:

- Permanent Resident Card: Form I-151 (old) and Form I-551(new). Expired cards may be accepted; or
- Unexpired Conditional Permanent Resident Card: Form I-551 with a two (2) year expiration date; or
- Receipt for USCIS Form I-751: Petition to Remove the Conditions on Residence; or
- Receipt for USCIS form I-698: Application to Adjust Status from temporary to Permanent Resident
- I-551 Stamp in Passport indicating evidence of lawful permanent residence. Expired stamps may be accepted; or
- Copy of USCIS Form I-90: Application to Replace Permanent Resident Card (old: Alien Registration Card), along with a U.S. Postal Service return receipt or with a cancelled check or money order; or

### 2. Students in Certain Non-immigrant Statuses

The United States Supreme Court has held that certain non-immigrant aliens have the legal ability to establish New York as their domicile, i.e. the place where they intend to reside permanently. Accordingly, foreign nationals in specified immigration categories (refer to list below) should be afforded the opportunity to establish New York State and/or New York City residency provided that they meet all the requirements set forth in Part I.A above, including showing that they have a bona fide intention of living in New York permanently and not returning to their prior domicile.

The following is a list of the visa categories of non-immigrant aliens who under federal law have the capacity to make New York State or New York City their domicile and therefore may qualify for the resident rate of tuition if they otherwise meet the requirements:

- A Ambassador, diplomats and certain other foreign officials and their families
- E Treaty trader/Treaty investor, spouse, and children
- G Certain government or international organization officials and their families
- H-1B Temporary worker in specialty occupation
- H-1C Temporary worker performing professional nursing services
- H-4 Spouse or children of alien classified as H-1B or H-1C
- I Representatives of foreign information media and their spouse and children
- K Fiancé(e) or Spouse of a U.S. citizen and dependent children
- L Intra-company transferee (such as managers who have worked abroad for a branch of a U.S. firm) and their spouse and children
- N Parents and children of certain officers and employees of international organizations who were in turn granted permanent residency as special immigrants
- Aliens who possess extraordinary ability in the sciences, arts, education, Business or athletics, motion pictures or television

- R Religious workers and their spouse and children
- S Crime witnesses and their spouse and children
- T Victims of severe forms of human trafficking
- U Victims of serious crimes
- V Certain spouses and children of lawful permanent residents who have a relative petition filed on their behalf before December 21, 2000 which has been pending for at least three (3) years

A student who is in one of categories above must provide proof of such status by providing his/her I-94 Arrival/Departure Card with either the notation Duration of Status (D/S) or an expiration date not yet reached.

Note: Where a qualified non-immigrant has made a timely application for an extension of stay as evidenced by a filing receipt for USCIS Form I-539, he/she remains eligible for in-state tuition. To "timely" file an application means that you file the application before your current period of authorized stay expires.

The following visa categories of non-immigrant aliens do not qualify for the resident rate of tuition:

- B Temporary visitors for business or pleasure
- C Visitors in transit
- D Crewmen
- F Academic students
- H-2 Temporary workers performing special services
- H-3 Trainees
- H-4 Families of H-2 and H-3 visa holders (Note: H-4 family of an H-1B or H-1C are eligible)
- J Exchange visitor (student, scholar, professor)
- M Vocational students
- P Athletes, group entertainers, reciprocal exchange programs
- Q Participant in international cultural exchange programs
- TN Temporary workers under NAFTA Trade Agreement

### **3. Students admitted as refugees, or granted asylum, or granted Withholding of Deportation or Removal**

It should be noted that a person whose evidence of Refugee or Asylum status has expired is nevertheless eligible for in-state tuition. The following are acceptable proofs of this status:

- Decision from USCIS or the Immigration Judge granting Asylum or Withholding of Deportation or Removal; or
- Refugee Travel Document; or
- I-94 Arrival/Departure Card with Employment Authorization Stamp and the notation "Asylum granted" or "Refugee granted"; or
- Employment Authorization Document (EAD or work permit) (I-766) with the following codes: (A)(3) for Refugee, (A)(5) for Asylee, and (A)(10) for Withholding of Deportation or Removal.

### **4. Students with Adjustment of Status Applications Pending**

Students who have filed USCIS Form I-485, Application to Register Permanent Resident or Adjust Status, qualify for in-state tuition pending a decision on their application. The following are acceptable proofs of this status:

- A USCIS Receipt Notice for the Adjustment of Status Application: Form I-797C indicating that the receipt is for an I-485 Adjustment of Status application; or
- A USCIS Receipt indicating that the fee for the adjustment application has been received. This receipt usually lists application type (in this case I-485), name of the applicant, alien number ("A" number) and the amount paid; or
- Employment Authorization Card (I-766) with the code (c)(9) or (c)(24)

Note: Students who filed or have an approved petition (Form I-130 or I-140), but have not yet applied for adjustment of status are NOT eligible for in-state or resident tuition.

## **5. Students Who Have Applied For or Have Been Granted Temporary Protected Status (TPS)**

- A USCIS Receipt of Application for TPS (Form I-821); or,
- A USCIS letter granting TPS; or
- Employment Authorization Document (I-766) with the codes (a)(12) or (c)(19).

## **6. Students Granted Deferred Enforced Departure (DED) status or Deferred Action or Deferred Action for Childhood Arrivals (DACA)**

While these categories are rare, they allow an individual to remain in the United States for designated time periods pending further review of the program by the United States Citizenship and Immigration Services (USCIS). Commonly, Deferred Action is given to approved, self-petitioning battered spouses until such time as they become eligible for adjustment of status. Deferred Enforced Departure (DED) is generally granted by the President to nationals of certain countries that had previously been designated for Temporary Protected Status (TPS) but TPS has expired.

Deferred Action for Childhood Arrivals (DACA) is a decision by the immigration authorities to not enforce the immigration law against a foreign national and it gives the foreign national a period of authorized stay in the United States. DACA is specifically geared toward certain undocumented young people who arrived in the United States at a very young age and who the government determines are a low priority for deportation from the United States. The following are acceptable proofs of this status:

- Form I-797 granting Deferred Action, Deferred Enforced Departure status, or Deferred Action for Childhood Arrivals (No Exhibit); or
- Unexpired Employment Authorization Document (EAD) (I-766) with the code (c)(14) for Deferred Action status (Addenda I - Exhibit 6A); or
- Unexpired Employment Authorization Document (EAD) (I-766) with the code (a)(11) for Deferred Enforced Departure (DED)/extended voluntary departure status (Addenda I - Exhibit 6B).
- Unexpired Employment Authorization Document (EAD) (I-766) with the code (c)(33) for Deferred Action for Childhood Arrivals (DACA).

## **7. Students Who Are "Late Amnesty" Applicants**

"Late Amnesty" applicants are immigrants who applied for immigration benefits under the 1986 Amnesty Laws but were not allowed to complete the process of adjusting their status. The LIFE Act signed into law by President Clinton on December 21, 2000 gave them the opportunity to adjust their immigration status. The following is the acceptable proof of this status:

- Unexpired Employment Authorization Document (I-766) with the code (c)(24)

## **8. Students Who Are NACARA Applicants**

These are applicants for permanent residence under the "Nicaraguan and Central American Relief Act". The following are the acceptable proofs of this status:

- An Unexpired Employment Authorization Document (I-766) with the code (c)(10)
- An USCIS Receipt Form I-881

## **9. Students Who Are Cuban Parolees**

The law provides for special procedures under which Cuban nationals or citizens and their accompanying spouses and children may obtain a haven in the United States and apply for permanent residence. The following are the acceptable proofs of this status:

- A USCIS decision granting parole; or
- Unexpired Employment Authorization Document (I-766) with the code (c)(11); or
- Proof of an application pending for adjustment of status

## **10. Students Who Are Other Types of Parolees**

The USCIS sometimes admits individuals in parole status for humanitarian or other reasons. For these individuals, their parolee status must be indicated on an unexpired document, i.e., passport, I-94 card or an USCIS letter. The following are the acceptable proof of this status:

- A USCIS decision granting parole; or,
- I-94 Card with stamp notation by the USCIS at entry

## **11. Students Who Have Applied for Asylum and Have Been Granted USCIS Employment Authorization**

The USCIS sometimes, but not always, grants employment authorization to individuals with asylum applications pending. To prove this status, a student must provide an unexpired Employment Authorization Document (I-766) with the Code (c)(8).