

BOARD OF REGENTS

BRIEFING PAPER

Handbook Revision, Resident Students

BACKGROUND & POLICY CONTEXT OF ISSUE

Currently, *Title 4, Chapter 15, Section 4* provides that an alien may be deemed a resident for tuition purposes and therefore will not be charged non-resident tuition if the alien has become a Nevada resident by establishing bona fide residence in Nevada and holds a permanent immigrant visa; has been granted official asylum or refugee status; has been issued a temporary resident alien card; holds an approved immigration petition as a result of marriage to a U.S. citizen; or is a nonimmigrant alien admitted to the U.S. with a visa classification under which the holder is eligible to establish domicile in the U.S. Currently, an individual with Temporary Protected Status (TPS), who otherwise meets the criteria for residency cannot be deemed a resident for tuition purposes. The U.S. Code provisions for TPS set forth in 8 U.S.C. §1254a and the United States Supreme Court confirm that TPS qualifies as lawful status in the United States. *Sanchez v. Mayorkas*, 141 S.Ct. 1809 (2021).

According to [U.S. Citizenship and Immigration Services](#) (USCIS), the Secretary of Homeland Security may designate a foreign country for TPS due to conditions in the country that temporarily prevent the country's nationals from returning safely, or in certain circumstances, where the country is unable to handle the return of its nationals adequately. USCIS may grant TPS to eligible nationals of certain countries (or parts of countries), who are already in the United States. The Secretary may designate a country for TPS due to the following temporary conditions in the country: ongoing armed conflict (such as civil war); an environmental disaster (such as earthquake or hurricane), or an epidemic; other extraordinary and temporary conditions. As of March 21, 2022, countries currently designated for TPS include Burma (Myanmar), El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, Venezuela, and Yemen. On March 3, 2022, the [Department of Homeland Security announced](#) the designation of Ukraine for TPS for an initial period of 18 months.

Similar to asylum and refugee status, an individual with TPS is considered lawfully residing in the United States. The Chancellor's Office recommends that TPS be included in the provisions governing aliens so that such individuals who establish bona fide residence in Nevada may be deemed residents for tuition purposes.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED

Amend *Title 4, Chapter 15, Section 4* (subsection 9) to provide that individuals with bona fide residence in Nevada who hold TPS may be deemed residents for tuition purposes.

IMPETUS (WHY NOW?)

The matter of students with TPS not being eligible for residency status under the current provisions of *Title 4, Chapter 15, Section 4*, was brought to the attention of the Chancellor's Office on February 22, 2022, when a student submitted a complaint to the Board of Regents regarding the matter. As a result of the student complaint, the Department of Academic and Student Affairs researched the matter and recommends proceeding with the *Handbook* revision presented herein.

CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:

- Access (Increase participation in post-secondary education)
- Success (Increase student success)
- Close the Achievement Gap (Close the achievement gap among underserved student populations)
- Workforce (Collaboratively address the challenges of the workforce and industry education needs of Nevada)
- Research (Co-develop solutions to the critical issues facing 21st century Nevada and raise the overall research profile)
- Not Applicable to NSHE Strategic Plan Goals

INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL

The recommended revision supports student access by ensuring that students with TPS may be deemed residents for tuition purposes if they establish bona fide residence in Nevada in alignment with other immigrant aliens who are residing lawfully in the United States.

BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION

As proposed, the policy revision will:

- Ensure that students with TPS may be deemed residents for tuition purposes if they establish bona fide residence in Nevada similar to other lawful aliens residing in Nevada;
- Supports students residing in Nevada who are from countries that are facing dangerous conditions including war, environmental disasters, or other extraordinary conditions;
- Supports students from the Ukraine as it has been recently designated as a TPS eligible country; and
- Supports students from other countries with the TPS designation including Burma (Myanmar), El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, Venezuela, and Yemen.

POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION

None have been brought forward.

ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED

Maintain the current provisions under *Title 4, Chapter 15, Section 4*, which would preclude a student with TPS from being deemed a resident for tuition purposes as TPS is not recognized by current policy as a qualifying alien.

RECOMMENDATION FROM THE CHANCELLOR'S OFFICE

The Chancellor's Office supports the recommended revisions to *Title 4, Chapter 15, Section 4*, as presented herein.

COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
- Amends Current Board Policy: *Title 4, Chapter 15, Section 4*
- Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
- Other: _____
- Fiscal Impact: Yes _____ No _____
Explain: _____

POLICY PROPOSAL
Title 4, Chapter 15, Section 4
Resident Students

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 4. Resident Students

Except as otherwise provided in Section 3 of this chapter, as supported by clear and convincing evidence, any person who meets any one of the following categories shall be deemed a resident student for tuition purposes:

....

9. An alien who has become a Nevada resident by establishing bona fide residence in Nevada and who holds a permanent immigrant visa, has been granted official asylum or refugee status, *has been granted temporary protected status*, has been issued a temporary resident alien card, holds an approved immigration petition as a result of marriage to a U.S. citizen, or is a nonimmigrant alien admitted to the U.S. with a visa classification under which the holder is eligible to establish domicile in the U.S. An alien holding another type of visa shall not be classified as a resident student pursuant to this Subsection, except as may be required by federal law or court decisions and upon due consideration of evidence of Nevada residence. The vice chancellor for academic affairs shall establish procedures governing visa classifications for the purpose of determining eligibility for classification as a resident student.