



Written by [R. Cort Kirkwood](#) on August 8, 2025

DOJ Sues Oklahoma to Stop In-state Tuition for Illegal Aliens

The federal Justice Department (DOJ) has sued Oklahoma to overturn its unlawful policy of providing in-state tuition to illegal aliens.

Filed early this week in the U.S. District Court for the Eastern District of the state, the lawsuit alleges that Oklahoma is violating federal law on two counts. First, the provision trespasses the Supremacy Clause. Second, it trespasses federal immigration law, which forbids offering post-secondary education benefits to illegals that are not available to all real Americans.



Allexxandar/iStock/Getty Images Plus

The lawsuit follows through on Trump's executive order to stop illegals from receiving tax subsidies. Another executive order related to criminal illegals also preceded the lawsuit.

Today marks the end of a longstanding exploitation of Oklahoma taxpayers, who for many years have subsidized colleges and universities as they provide unlawful benefits to illegal immigrants in the form of in-state tuition. I have partnered with the Trump Administration to ensure... pic.twitter.com/fQlvFq5Zc2

— Oklahoma Attorney General Gentner Drummond (@Okla_OAG) [August 5, 2025](#)

The Executive Orders

[Trump's order](#), "Ending Taxpayer Subsidization of Open Borders," [targets more](#) than in-state tuition benefits. It requires agency heads to identify any programs that subsidize illegals in contravention of that law, and to "prevent taxpayer resources from acting as a magnet and fueling illegal immigration to the United States, and to ensure, to the maximum extent permitted by law, that no taxpayer-funded benefits go to unqualified aliens."

As well, the order blocks money from going to states and localities that would, "by design or effect, facilitate the subsidization or promotion of illegal immigration, or abet so-called 'sanctuary' policies that seek to shield illegal aliens from deportation."

□ BREAKING: President Donald J. Trump just signed an executive order to TERMINATE all taxpayer-funded benefits for illegal aliens and END the subsidization of open borders.

Here is the text of the order:

By the authority vested in me as President by the Constitution and the...

— Rapid Response 47 (@RapidResponse47) [February 20, 2025](#)



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Thus, in-state tuition benefits — which state universities typically offer to *residents of the state* — fall under the order.

A second order relevant to the lawsuit, [signed April 28](#), is “Protecting American Communities From Criminal Aliens.”

It orders federal officials “to stop the enforcement of State and local laws, regulations, policies, and practices favoring aliens over any groups of American citizens that are unlawful, preempted by Federal law, or otherwise unenforceable, including State laws that provide in-State higher education tuition to aliens but not to out-of-State American citizens that may violate [8 U.S.C. 1623](#) or that favor aliens in criminal charges or sentencing.”

The Lawsuit

The [13-page lawsuit seeks](#) to force Oklahoma to comply with that federal law. The lawsuit attacks [state law](#) and the [pro-illegal-alien education policy](#) that falls under it. The suit states:

These Orders emphasize that federal and state governments must not grant greater benefits to individuals who are unlawfully present in the United States than to American citizens.

As well, the order mirrors Congress’ legal mandate “to reduce incentives for illegal immigration by limiting access to certain public benefits.”

The Sooner state “extends eligibility for in-state tuition benefits at state postsecondary educational institutions to individuals who are not lawfully present in the United States, while requiring U.S. citizens from other states to pay higher tuition rates,” the [lawsuit alleges](#):

This unequal treatment of Americans is squarely prohibited and preempted by federal law, which expressly provides that “an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State ... for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit ... without regard to whether the citizen or national is such a resident.”

The state’s education policy, the lawsuit avers, permits “aliens not lawfully present in the United States” to be “eligible for reduced tuition benefits, whereas lawfully present nonimmigrants must either obtain permanent resident status or maintain their visas and meet additional requirements to qualify for out-of-state tuition waivers.”

The policy also violates another federal statute, [8 U.S. Code 1621](#). That law says “a state can only provide eligibility for certain benefits to aliens not lawfully present in the United States through ‘the enactment of a State law’ that ‘affirmatively provides for such eligibility,’” the lawsuit states.

And that, the lawsuit argues, violates federal law, notably the [Supremacy Clause](#) of the Constitution.

“[U]nder the Supremacy Clause ... any state law, however clearly within a State’s acknowledged power, which interferes with or is contrary to federal law, must yield,” the [lawsuit argues](#), citing U.S. Supreme Court precedent. (Do note, however, that, regardless of precedent, the Supremacy Clause applies only to federal law made “in pursuance” of the Constitution.)

Oklahoma law and policy thus “directly conflict with federal immigration law’s prohibition” of in-state



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tuition for illegals.

The lawsuit asks the court to declare that the Oklahoma policy “violates the Supremacy Clause and is therefore unconstitutional and invalid.”

Broader Campaign

The lawsuit is part of the Trump administration’s broader campaign to block states from violating federal immigration law, notably by declaring themselves “sanctuaries” that refuse to cooperate with federal immigration authorities.

So far, the administration has sued [Los Angeles](#); Denver and Colorado; [New York](#) and [New York City](#); and [Chicago](#), Cook County, and the state of Illinois to overturn sanctuary policies.

This week, also pursuant to “Protecting American Communities From Criminal Aliens,” [DOJ published](#) a list of illegal-alien sanctuaries. All are far-left Democrat-run cities and states, such as Los Angeles and the state of California, and Portland and the state of Oregon.

Today, the Justice Department published a list of states, cities, and counties identified as having policies, laws, or regulations that impede enforcement of federal immigration laws.

“Sanctuary policies impede law enforcement and put American citizens at risk by design,” said... pic.twitter.com/us6vFW3dhv

— U.S. Department of Justice (@TheJusticeDept) [August 5, 2025](#)

Thus far, DOJ has not charged any state or local officials for [harboring illegal aliens](#), as border czar Tom Homan [has promised](#) more than once.

DOJ has, however, charged top far-left Democratic officials with crimes in connection with interfering with Immigration and Customs Enforcement (ICE) agents.

U.S. Representative LaMonica McIver of New Jersey [faces three felony assault charges](#) for attacking ICE agents at an illegal-alien detention center in Newark.

[Also charged](#) with assault is New York City comptroller Brad Lander, who tried to block ICE agents from arresting an illegal at an immigration hearing.

[DOJ has charged](#) a circuit court judge in Wisconsin with obstruction in connection with helping an illegal alien attempt to escape ICE agents, and a former judge in New Mexico [faces similar charges](#).



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