Statement Opposing Discriminatory State Tuition Laws

Endorsed August 2015

WHEREAS, the Fourteenth Amendment provides that “no state shall . . . deny to any person within its jurisdiction the equal protection of the laws;”

WHEREAS, any state policy that treats U.S. citizen college applicants and students who reside in that state as “non-residents” of the state solely because their parents are undocumented immigrants is in violation of the guarantee of equal protection;

WHEREAS, the result of this state-created classification means that U.S. citizen students who reside in that state must pay out-of-state tuition fees that can vastly exceed the cost of in-state tuition;

WHEREAS, the vast differential in tuition forces these students to forego higher education altogether or to incur steep costs to obtain the same education that is available at a much lower cost to other state residents solely because of the immigration status of their parents; and

WHEREAS, attempts to implement such policies have been thwarted in states such as Florida, where a federal judge found discriminatory tuition laws unconstitutional.

THEREFORE BE IT RESOLVED, that NAPABA:

1. Denounces efforts by any state to enact or implement tuition policies that violate equal protection by treating certain U.S. citizens differently solely on the basis of their parents’ immigration status.

2. Fully supports efforts to challenge such discriminatory policies.

3. Authorizes its president, board, and staff to communicate the content of this resolution to its members, affiliates, other bar associations, members of Congress, the Administration, the press, and others to take steps to implement this resolution, as they deem necessary.

4. Supports this resolution as a policy priority until it is withdrawn or modified by subsequent revision.