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[00:00:00] **Jack Schneider:** Welcome to *HEQ&A*, the podcast of the *History of Education Quarterly*. I'm your host, *HEQ* co-editor Jack Schneider. Every few weeks, we'll dive into recent work from the journal, asking authors how their projects challenge or extend what we know about a topic, exploring what's interesting and surprising about it, and then taking a step back to consider broader implications. In the second half of the show, we turn our sights to teaching. So, if you're an educator, make sure to stick around until the end. And now let's hear from one of our authors.

[00:00:51] **Camille Walsh:** Hi, my name is Camille Walsh. I'm an Associate Professor of Law, Economics, and Public Policy and American and Ethnic Studies at University of Washington Bothell. My article's title is "The Right to Residency: Mobility, Tuition, and Public Higher Education Access." So what this article is about is the history of tuition based residency laws at public higher education institutions in the U.S. in the 20th century. And I'm really interrogating how this area of, uh, what I call "higher education exceptionalism" got carved out of otherwise more and more protected rights of free movement throughout the 20th century. So really highly cherished rights of mobility hit a roadblock when it comes to access to public higher education.

[00:01:38] And one of the things I find is that there's both a deference--there's a deference to university financial needs. So a recognition at even the Supreme Court level, that higher non-resident tuition rates simply benefit university budgets. And in doing that, the Supreme Court and other courts also separate out education from the other areas that they protect for mobility access that they define as necessities of life. So education is not a necessity of life and therefore can have all these residency limitations attached to it. There's also this interesting language that runs throughout around a sort of legacy taxpayer kind of entitlement that's inherited from one's parents.

[00:02:20] This project challenges and kind of extends what we currently know about the topic in part, because I'm trying to unite a couple of different literatures around both the history of higher education and of public higher education broadly in the history of education field with this narrow little focus on residency laws that has been investigated by primarily legal scholars and some people in education scholars. And one of the things that I think history can bring to that is the context of not just why, legally, courts have made these decisions over time, sort of within the confines of the courtroom, but also in what ways are those decisions reflecting broader societal undercurrents, including who is now accessing these institutions of higher education. So I don't think it's necessarily a coincidence that right at the moment, that you have larger numbers of formerly disenfranchised people able to access public higher education in particular for the first time, you also have barriers, just in general, in the form of tuition and higher tuition rapidly increasing over time. But you also have rapidly increasing barriers around non-resident tuition access and sort of a stricter definition decade by decade of who counts as a resident of a state.

[00:03:39] So one of the things that is interesting and surprising, I think about this work is that what I found as I was researching it is that I think a lot of people might've assumed that

residency laws were perhaps there as a form of protecting equity or protecting access and there are sort of potential arguments to be made around that. There's very little data to base any arguments around on that. But there, you know, you can imagine an argument, but when you look at the rationales that were used in order to protect the residency tuition rates, it really has nothing to do with equity. And it never had anything to do with equity and it never had anything to do with access and it overwhelmingly had to do with higher education budgets and the opportunities for higher education budgets to be higher with higher non-resident tuition rates. And with this sort of in-group state residents have somehow earned this for their children, by being smart enough to move to the right state where their child would want to get the access to higher education.

[00:04:37] Um, so I think it's, it's sometimes surprising for people to hear that and to sort of rethink how they thought about access, access to higher education and residency rules in general. But the other thing that was surprising to me as I researched it is that I thought I would find more people kind of, you know, writing defenses of it or, or, or making any kind of scholarly defense of it. And I actually, uh, found that. Almost no one that I encountered in conferences or elsewhere, that really is a fan of this. Right? So the structure is there and it's grown over time and it's strengthened over time, but not particularly because it had a lot of strong advocates outside of the very instrumental advocates and some parents.

[00:05:18] And one of the broader implications, um, I think is that as we're entering into a time where there, there seem to be at least more discussions and debates around real options for universal access to particularly a public higher education, um, tuition-free education like that, those things are even being discussed at a broad scale is really heartening. Um, but one of the things that even in those discussions hasn't really been changed is this question of access for non-residents. And so if you think about that, it is entirely possible for a student to not be a resident of any state for the purposes of tuition, because being a resident for the purposes of tuition has actually in most states, much more onerous than being a resident or living in a place or having family in a place. Then it's something that needs to be addressed, even in those otherwise really inclusive attempts to broaden the scope of higher education. So I think it has real policy implications to consider in the future as well.

[00:06:20] **Jack Schneider:** The second half of the show is dedicated to thinking about teaching. We ask authors to put on their guest lecturer hats and take students into the weeds. What should they pay attention to, methodologically speaking? What else should they be reading if they want to take a deep dive into the historiography? And where are there opportunities for further research?

[00:06:39] **Camille Walsh:** I think in terms of methodology in the article, it's useful for students, depending on what kind of program they're studying, to think about the interdisciplinary crossovers between the types of sources that I'm interrogating. And what I mean by that is I think particularly with legal sources, it can sometimes just feel like "oh, there's this settled question out there that courts have decided, and therefore there's maybe no point or there's just a handful of famous cases. And, um, anything beyond that is going to be highly complicated to delve into." And it is true that, I am not going to lie, law

can be very complicated and filled with jargon, but I think-- it's always encouraging to me when I teach law that if a student goes down one rabbit hole in law and starts to really investigate, like, what are the cases on this exact topic? They will figure out the jargon on that exact topic pretty quickly. And they will be able to interrogate those cases and place them in historical context or place them in a scholarly context pretty quickly.

[00:07:37] So I think it's possible to bring law in as an archival source, along with a lot of other types of sources. So I use some letters that were written in the University of California system from parents and other kinds of University of California records. Um, this is part of a larger eventual book project, so I don't know if I'll be able to do the records of all 50 states eventually for that. But I think it's valuable to know that those records, those institutional records are out there for higher education systems. Um, but I also think just the idea of bringing in different kinds of sources can be really helpful.

[00:08:11] I think in general, if students are interested in more on the historiography of higher education and history of higher education, there's a lot of great books by Roger Geiger, Christopher Newfield's work on Making the Public University is really significant I think on this, especially on this question of sort of the change in access at the same time as large numbers of people were entering in for the first time to educational systems. And I think this kind of goes to thinking about broadening methodology to include law. I often have my grad students go and look at the HeinOnline database at their library, because it's where all the law journals are located. And there are just a million lodger polls by nature of the way law schools, promulgate journals, just each law school has like dozens of them. And every legal academic has to write, you know, X, many articles in law journals, but they don't really always cross over into other kinds of social science or historical databases.

[00:09:10] And so you can have to go to that particular database and there might be a few others. I'm not doing an advertisement for HeinOnline. If you go to HeinOnline and you search for your topic, you might find that actually a niche group of legal scholars have interrogated this question, which they have done with residency, particularly in the 1970s, around the 26th Amendment being passed, because really for many people they thought that kind of would settle it. Because if you're an adult at 18, why on earth should your parents' place of residency determine what you pay? Um, anyway that isn't how it turned out. But, but I think just looking at other kinds of, um, resources, Michael Olivas has written a lot on this and he's written in law journals as well about law and residency and education. And I think there's lots of scholars who do that crossover work.

[00:09:53] I think there are a lot of opportunities for further research on residency and on public higher education tuition generally. I just think it's a little bit of an under-researched area up until now. But when I think about residency, one of the things that I noted when looking at some of the old University of California records or that there were at, uh, at one time they were doing some studies and some assessments of sort of, uh, for example, the Ford Foundation looking at Black students were predominantly migrating out of the South to attend big public Midwestern universities for graduate school and things like that.

[00:10:28] And I think. Perhaps because residency has just become so entrenched as like an assumed--it just will always be there, it must have always been there thing we've, we've sort

of under examined the rate at which people might be attempting to, or might have just assumed they couldn't attend those schools.

[00:10:46] So I think, I think perhaps interrogating not just who ends up crossing that barrier because right now it might often just be people with means and privilege, some degree of privilege, but also trying to find ways to identify what the matches would have been, that might've been an ideal for a student based on their family, based on their future interests, um, and things like that. So I think there are some options here.

[00:11:13] **Jack Schneider:** Check out *History of Education Quarterly* online. The journal is published by Cambridge University Press and it's carried by most academic libraries. You should also be sure to follow *HEQ* Twitter handle: @histedquarterly, which regularly sends out free read-only versions of articles, and the show's Twitter handle @HEQandA. And don't forget, subscribe to the show so you don't miss forthcoming episodes. We're available on iTunes, Stitcher, and wherever you get your podcasts. HEQ&A is produced at the University of Massachusetts Lowell. Our producer is Jennifer Berkshire and our theme music is by Ryan Shaw. I'm Jack Schneider. Thanks for joining us.