



# Removing Barriers to Higher Education for Undocumented Students

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By Zenen Jaimes Pérez

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**GENERATION  
PROGRESS**

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# Introduction and summary

Each year, millions of students graduate from American high schools. Counted among that throng of proud graduates are about 65,000 undocumented students.<sup>1</sup> Unlike for their classmates, however, this moment of achievement for undocumented graduates is muted by the facts that their path to higher education remains difficult at best and that few of them actually complete a postsecondary education.

In 1982, the Supreme Court in *Plyler v. Doe* decided that all students, regardless of their immigration status, were guaranteed a K-12 education.<sup>2</sup> But the Court's decision did not extend to higher education. Moreover, Congress and a number of state legislatures have affirmatively attempted to bar—and, in many cases, have prohibited—access to education benefits for undocumented students. These legal barriers add to the social and economic challenges undocumented students face—challenges that make their route to higher education very steep compared with their peers.

In the past three decades, the cost of attaining a college degree has increased by more than 1,000 percent.<sup>3</sup> Despite the soaring cost, undocumented students in all states are still prohibited from accessing all forms of federal education benefits that make up a large percentage of how students finance their postsecondary education. Furthermore, many undocumented students are denied in-state tuition rates and have to pay higher rates to attend the public college or university in their home state.<sup>4</sup> These exclusions leave undocumented students unable to pay for a postsecondary education.

Since 2001, states have taken steps to try to make postsecondary education more accessible to undocumented students. State-based DREAM Acts—which have changed state residency requirements to allow undocumented students to pay the same tuition rates as their peers—have become law in several states. The first of the bills passed in Texas with bipartisan support in 2001.<sup>5</sup> Texas legislators approved the law, acknowledging that the state economy benefits from a more educated population.<sup>6</sup> Since then, 15 more states have passed similar legislation, and four states have gone even further, passing laws that allow undocumented students to access publicly funded education grants.<sup>7</sup>

Some states, however, continue to place higher education out of reach for undocumented students. Georgia currently bans undocumented students from enrolling in some public colleges and universities. Arizona has passed legislation prohibiting undocumented students from paying in-state resident tuition rates at some of its public colleges and universities; undocumented students can pay in-state resident tuition rates only at Pima Community College and Maricopa Community Colleges.<sup>8</sup> The top four states—North Carolina, Georgia, Nevada, and Arkansas—with the fastest-growing undocumented populations—each has had more than 200 percent or higher growth in the past 20 years—are also states that lack beneficial tuition-equity laws.<sup>9</sup> As the numbers of undocumented young people in these states increase, more young people will be locked out of higher education.

Access to higher education for undocumented students is especially important because the pathways to legalization in immigration reform have been closely linked with education attainment. The most recently proposed immigration bill, S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act, included an accelerated pathway to legalization for undocumented young people who had completed at least two years of higher education.<sup>10</sup> The federal Development, Relief, and Education for Alien Minors, or DREAM, Act, which provided conditional permanent residency to young immigrants, also required a high school diploma or GED and at least two years at a four-year postsecondary institution.<sup>11</sup> Removing barriers to higher education will be paramount to ensuring that the highest number of undocumented young people qualify for any future immigration reform.

Besides tuition-equity laws, other factors contribute to challenges faced by students seeking to enroll in college and complete their degrees. Undocumented students face structural barriers to higher education, such as a lack of adequate mentoring, limited information on eligibility from postsecondary institutions, and a lack of continued financing for tuition and other living costs. Furthermore, the burden of high poverty rates and the need to work to help support their families—as well as a fear of sharing information about their and their family members' legal status; unsupportive college environments; and changing state laws that change residency requirements for in-state tuition rates, leaving students uncertain about their rights—all conspire to lock the door to higher education for undocumented students. The pressures and the lack of prospect of attending college lead to many undocumented students dropping out of high school to seek full-time employment.<sup>12</sup>

These challenges can be overcome. A concerted effort by supportive mentors, high school counselors, and higher-education administrators can have an enormous, positive upside for undocumented students as they navigate the educational system. The federal government, state governments, and individual colleges and universities should ensure undocumented students have the same opportunities to succeed as their peers. The following actions should be taken by Congress, the Obama administration, states, cities, and colleges and universities.

**Congress should:**

- Pass immigration reform legislation that creates a pathway to citizenship for undocumented youth and that includes progressive education provisions, including:
  - Repealing Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, or IIRIRA—the prohibition on states granting in-state tuition rates to undocumented students
  - Allowing undocumented immigrants access to all federal education benefits without delay
  - Tying education requirements for legalization to high school graduation or GED completion, rather than to earning a higher-education certificate

**In the absence of congressional action on immigration reform, the Obama administration should:**

- Use the secretary of education’s authority to create an Experimental Site Initiative that allows some beneficiaries of Deferred Action for Childhood Arrivals, or DACA, to access Pell Grants
- Allow parents of DACA recipients to enroll in the new Deferred Action for Parental Accountability, or DAPA, program

**States should:**

- Continue to pass tuition-equity legislation that changes residency requirements to allow undocumented students to qualify for in-state tuition rates
- Pass legislation that allows undocumented students to qualify for publically funded state education benefits

- Pass legislation that requires professional development for high school and college personnel to increase the understanding and use of the postsecondary options available to undocumented students

**Cities should:**

- Help create systems to facilitate the enrollment of undocumented parents in DAPA

**Colleges and universities should:**

- Train advisors and other college administrators to properly address the needs of undocumented students and to create a more welcoming campus environment
- Expand financial aid opportunities for undocumented students and admit more undocumented students

Caught in unfair circumstances, undocumented students—most of them coming of age in the United States—face uncertain futures, their dreams and potential thwarted by roadblocks to higher education. Undocumented students have to navigate a complex web of federal, state, and postsecondary institution policies in order to achieve a postsecondary education. The fact that they are too often locked out of colleges, universities, and other institutions of higher education is a loss not only for them but for the country as well. This lack of access to higher education means that potential entrepreneurs, highly skilled workers, and middle-class consumers and taxpayers will not be there to grow our economy. It is up to policymakers to unblock the path to a brighter future for thousands of young, eager students and for the country as a whole.

# The current landscape of tuition equity

In 1982, the Supreme Court in *Plyler v. Doe* affirmed the guaranteed right to a K-12 education regardless of legal status.<sup>13</sup> However, there is no established guarantee to a postsecondary education. Instead of a uniform policy to allow equal access to postsecondary education, undocumented students must navigate a complex labyrinth of federal, state, and postsecondary institution policies.

Currently, individual states establish residency requirements that determine tuition costs for students at public colleges and universities. These policies vary widely by state.<sup>17</sup> Generally, a student with at least one parent who is a state resident for a period of at least one full year before the student matriculates in college can expect to pay an in-state tuition rate.<sup>18</sup> Students who do not meet the residency requirement must pay the out-of-state tuition rate, which is, on average, 61 percent higher.<sup>19</sup> In addition to in-state tuition rates, meeting a state's residency requirements also allows students to qualify for state education grants that help families finance higher education. They also qualify for several federal financial aid programs.<sup>20</sup> Undocumented immigrants are generally excluded from these requirements.

Prior to the first state legislation allowing undocumented students to meet state residency requirements for the purpose of in-state tuition rates, these students were required to enroll at the out-of-state tuition rate, and they remained ineligible for state education grants despite having lived in the state for multiple years and graduating from a state high school.<sup>21</sup> Although they were guaranteed a K-12 public education, undocumented students faced legal roadblocks to accessing a postsecondary education.

## Higher Education Act of 1965

Title IV of the federal Higher Education Act, or HEA, requires that applicants for federal financial aid, including Pell Grants and the Federal Work-Study Program, be legal U.S. residents. This excludes undocumented students.<sup>14</sup>

## Illegal Immigration Reform and Immigrant Responsibility Act of 1996

This federal immigration law restricted the states' ability to provide residency and in-state tuition benefits for undocumented students. Specifically, the IIRIRA prohibits states from making undocumented students eligible for any postsecondary education benefit unless U.S. citizens from other states would also be eligible for that benefit.

States that have passed tuition-equity laws have overcome this federal prohibition by allowing anyone—including undocumented students or U.S. citizens from other states—to pay in-state tuition rates at state colleges and universities if they meet the state's eligibility requirements.<sup>15</sup>

## Personal Responsibility and Work Opportunity Reconciliation Act of 1996

This federal law states that all "unqualified aliens" remain ineligible for any federal public benefit, including any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment, or other similar benefit.<sup>16</sup>

Over the past decade, state governments and institutions of higher education have tried to address the lack of uniform laws that make it difficult for undocumented students to earn a college degree. Since 2001, 16 states<sup>22</sup> have passed legislation changing their residency requirements to allow undocumented young people to qualify for in-state tuition rates. In 2001, Texas and California were the first states to pass legislation allowing in-state tuition rates for some undocumented students, followed by Utah and New York in 2002; Washington and Illinois in 2003; Kansas in 2004; New Mexico in 2005; Nebraska in 2006; Maryland and Connecticut in 2011; Colorado, Minnesota, New Jersey, and Oregon in 2013; and Florida in 2014.<sup>23</sup> Additionally, five states—Hawaii, Michigan, Oklahoma, Rhode Island, and Virginia—offer in-state tuition rates via decisions by their state boards of higher education, or through advising by the state attorney general.<sup>24</sup>

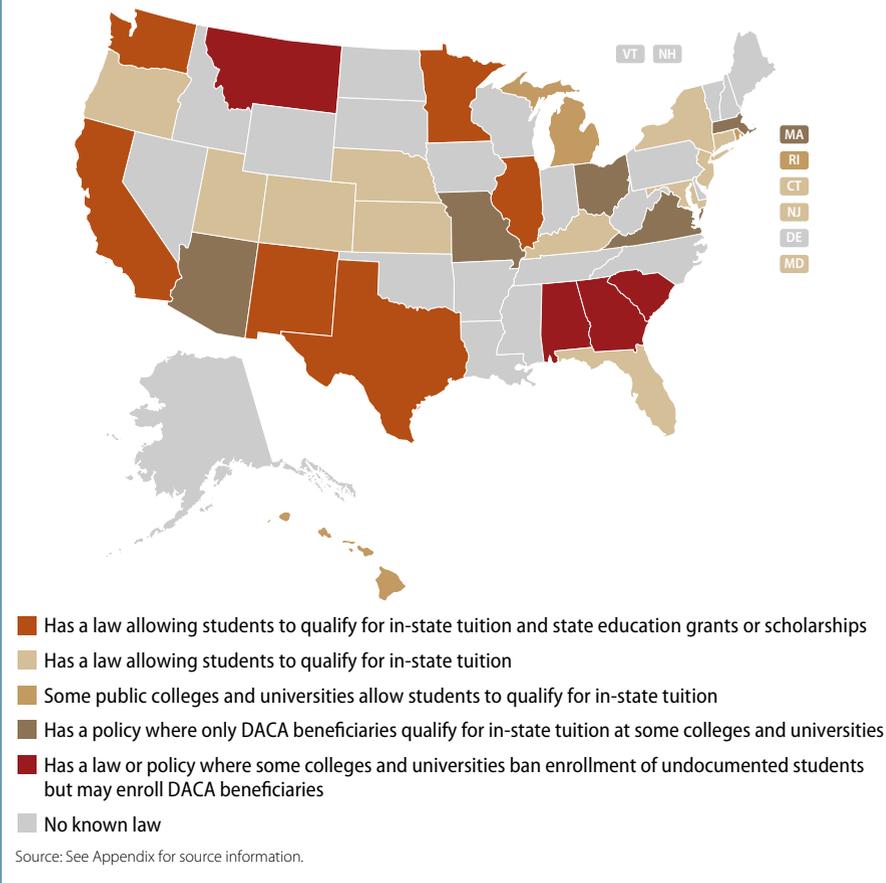
Even with a growing number of states enacting friendly tuition-equity laws, 32 states continue to require undocumented students to pay out-of-state tuition rates at public colleges and universities.<sup>25</sup> In Wisconsin, a state without a specific law that guarantees tuition equity for undocumented students, residents who enrolled at the University of Wisconsin-Madison this school year paid about \$10,403 in tuition and fees for two semesters of classes. Undocumented students who attended and graduated from a Wisconsin secondary school were charged almost \$26,653 in tuition and fees at the school.<sup>26</sup>

Additionally, four states—Texas, California, New Mexico, and Washington—have passed laws that allow undocumented students access to publicly fund state education grants.<sup>27</sup> Similarly, many postsecondary institutions across the country have partnered with both public and private organizations to provide some financial assistance to undocumented students.<sup>28</sup> These sorts of policies have allowed more undocumented young people to pay lower tuition rates and receive some financial assistance to attend college.

Even with in-state tuition rates, undocumented students can find it difficult to cover the costs of higher education. Most states with in-state tuition rates for undocumented students have not allowed undocumented students access to state education grants. In Connecticut, for example, undocumented students can pay in-state tuition rates, but they remain ineligible for any state need-based financial aid or scholarships, making college still unaffordable for many.<sup>29</sup> Even worse, 15 percent of tuition revenue in Connecticut by law has to be given back to students as need-based aid. All students that pay tuition contribute to this fund, but undocumented students remain ineligible to draw from it.<sup>30</sup> In many states, policymakers support in-state tuition equity but continue to deny access to state financial aid. They have gotten it half right, but policymakers must go further to make higher education attainable for undocumented youth.<sup>31</sup>

FIGURE 1

## Inconsistent state laws confuse many undocumented college applicants



As the cost of higher education continues to soar,<sup>32</sup> undocumented students continue to face challenges paying their tuition, particularly without access to state and federal financial aid and loans.<sup>33</sup> In more conservative states, undocumented youth have been almost completely excluded from beneficial tuition-equity laws. In Alabama, South Carolina, and some college systems in Georgia, undocumented students face enrollment bans, while Arizona and Indiana explicitly prohibit in-state tuition rates.<sup>34</sup> In South Carolina, the governor signed H.B. 4400 in 2008, which bans undocumented students from enrolling in any public postsecondary institution.<sup>35</sup>

# Educational attainment of undocumented youth

Reliable nationwide and state estimates of undocumented students attending college or pursuing a postsecondary education are difficult to obtain. The Pew Hispanic Center estimates that there are roughly 1.7 million undocumented young people under age 30 who are enrolled in high school, have graduated or obtained a GED, or are currently enrolled in elementary or middle school.<sup>36</sup> Each year, about 65,000 undocumented students graduate from American high schools.<sup>37</sup> An estimated 80,000 undocumented young people who have lived in the United States for five years or longer reach age 18 annually.<sup>38</sup>

Nationally, 40 percent of undocumented young people ages 18 to 24 do not complete high school, compared with 8 percent of their U.S.-born peers.<sup>39</sup> But this overall figure hides a large discrepancy between younger and older immigrants: The younger the age of arrival for an undocumented immigrant, the greater the chance he or she will achieve higher educational attainment.<sup>40</sup> Of those who arrived at age 14 or older, 46 percent have not completed high school, compared with 28 percent of those who arrived before age 14.<sup>41</sup>

These divisions continue into higher education. About 49 percent of undocumented young people ages 18 to 24 who have completed high school have enrolled in or attended an institution of higher education.<sup>42</sup> However, of those who arrived at ages 14 or older, only 42 percent are in college or have attended college—compared with the 61 percent who arrived before age 14 who are attending college or have attended college.<sup>43</sup>

FIGURE 2

## Undocumented young people have lower educational attainment

Immigrants who arrive before age 14 have higher educational attainment

### Educational attainment of younger adults, ages 18–24

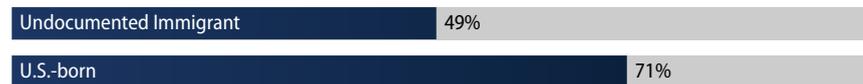
Graduated from high school



High school graduation of undocumented, by age upon arrival



Enrollment in postsecondary education of younger adults, ages 18–24



Enrollment in postsecondary education of undocumented, by age upon arrival



Source: Jeffrey S. Passel and D'Vera Cohn, "A Portrait of Unauthorized Immigrants in the United States" (Washington: Pew Research Hispanic Trends Project, 2009), available at <http://www.pewhispanic.org/files/reports/107.pdf>.

Nevertheless, many undocumented students enroll in college. The vast majority of them will enroll in a community college.<sup>44</sup> In the 2005-06 school year, for example, 18,000 undocumented college students were enrolled in California community colleges alone.<sup>45</sup> However, some studies have found that undocumented students at public and private four-year institutions are less likely to complete their bachelor's degrees on time than are U.S. citizens.<sup>46</sup> Because of the barriers to their continued education, including financial burdens, many undocumented students find it difficult to complete their degrees.<sup>47</sup>

Additionally, estimates from the Deferred Action for Childhood Arrivals program can provide some insight into the educational attainment of undocumented youth. The Migration Policy Institute estimates that 1.2 million undocumented young people ages 15 to 30 were immediately eligible for DACA when the program began in August 2012.<sup>48</sup> DACA temporarily defers deportations from the United States for eligible undocumented youth and young adults and grants them access to renewable two-year work permits and Social Security numbers.<sup>49</sup> To qualify for DACA, undocumented young people must have graduated from high school or received their GED or currently be enrolled in school.<sup>50</sup>

Of those immediately eligible for DACA, 99,000 undocumented young people, or 8 percent, had completed an associate's, a bachelor's, or an advanced degree; 247,000, or 20 percent, had completed high school and were enrolled in a postsecondary institution; 510,000, or 41 percent, had completed high school and were not enrolled in a postsecondary institution; and 380,000, or 31 percent, had not completed high school and were still enrolled in grades K through 12.<sup>51</sup> Another 426,000 could become eligible for DACA if they return to school to complete their high school diploma or GED.<sup>52</sup>

## Deferred Action for Childhood Arrivals<sup>53</sup>

Announced in June 2012 by President Barack Obama, DACA temporarily defers deportations from the United States for eligible undocumented youth and young adults and grants them access to renewable two-year work permits and Social Security numbers. More than 680,000 undocumented young people have applied for DACA and, as of July 2014, 587,366 have received a work permit and relief from deportation.

In addition to the requirements listed below, young people must pay \$465 for filing fees and fees for biometric services, including fingerprints and photos. Collectively, these young people and their families have paid more than \$300 million in fees for DACA.<sup>54</sup>

To be eligible for DACA, an undocumented immigrant must have:

- Passed a background check
- Been born on or after June 16, 1981
- Come to the United States before their 16th birthday
- Not have lawful immigration status and be at least 15 years old

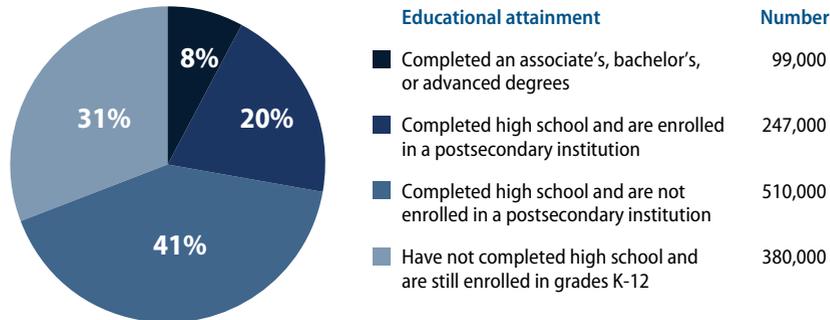
- Continuously lived in the United States since June 15, 2007
- Been present in the country on June 15, 2012, and on every day since August 15, 2012
- Graduated high school or obtained a GED certificate. Otherwise, he or she must be an honorably discharged veteran of the Coast Guard or armed forces or currently attend school on the date he or she submits the application for deferred action
- Not been convicted of a felony offense
- Not been convicted of a significant misdemeanor offense or three or more misdemeanor offenses
- Not posed or pose a threat to national security or public safety

In November 2014, President Obama expanded the program to allow individuals born prior to June 15, 1981, to apply for DACA. He also changed the continuous-residence requirement to January 1, 2010, rather than the prior requirement of June 15, 2007.<sup>55</sup> Additionally, DACA will now last three years instead of two.<sup>56</sup> An estimated 300,000 more people will be able to qualify for the program.<sup>57</sup>

FIGURE 3

### Barriers to higher education challenge DACA recipients

Only a small portion of those immediately eligible for DACA have reached higher education



Source: Jeanne Batalova and others, "DACA at the Two-year Mark: A National and State Profile of Youth Eligible and Applying for Deferred Action" (Washington: Migration Policy Institute, 2014), available at <http://www.migrationpolicy.org/sites/default/files/publications/DACA-Report-2014-FINALWEB.pdf>.

A combination of legal, economic, and cultural barriers makes the path to graduation and higher education very steep for undocumented high school students when compared with the path of their peers. However, the presence of state laws that allow undocumented students to pay in-state tuition rates and qualify for education grants—and helpful school counselors and mentors—have been shown to increase high school graduation rates and postsecondary education enrollment for undocumented immigrants.<sup>58</sup>

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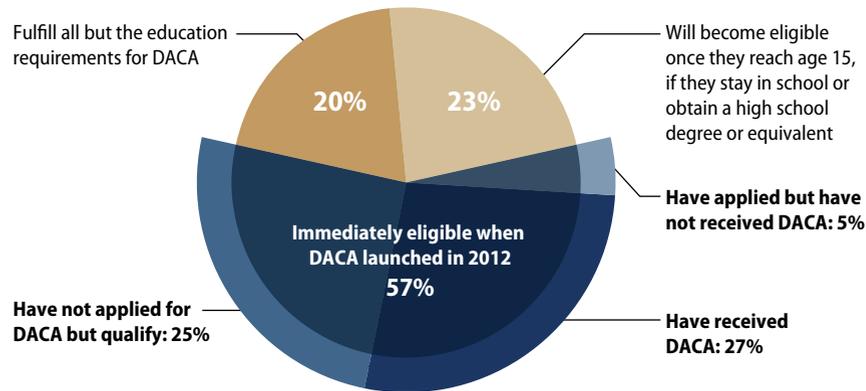
### DACA and its impact on higher-education access

DACA, while not a complete solution, has given some undocumented students an easier path to higher education. A survey of undocumented youth found that, since the enactment of DACA, 70 percent of survey respondents reported getting their first job or starting a new job. Additionally, 45 percent reported increased job earnings.<sup>59</sup> The ability to work and earn increased pay makes it easier for DACA beneficiaries to finance their higher education.

FIGURE 4

### A significant number of people cannot qualify or have not applied for DACA

Only 27 percent have actually received it



Source: U.S. Citizenship and Immigration Services, "Number of I-821D, Consideration of Deferred Action for Childhood Arrivals, by Fiscal Year, Quarter, Intake, Biometrics and Case Status: 2012–2014," available at [http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA\\_fy2014\\_qtr3.pdf](http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA_fy2014_qtr3.pdf) (last accessed September 2014). Jeanne Batalova and others, "DACA at the Two-year Mark: A National and State Profile of Youth Eligible and Applying for Deferred Action" (Washington: Migration Policy Institute, 2014), available at <http://www.migrationpolicy.org/sites/default/files/publications/DACA-Report-2014-FINALWEB.pdf>.

Since DACA began in August 2012, six states have also changed their residency requirements to allow undocumented students to qualify for in-state tuition rates, and the state of Washington has opened up education grants to do the same.<sup>60</sup> In some states, however, DACA beneficiaries face different rules regarding their enrollment in public colleges and universities than do their non-DACA-beneficiary peers. For example, despite the ban on the enrollment of undocumented students in Alabama, the state's 3,262 DACA recipients are treated differently under Alabama law and can enroll in community colleges at in-state tuition rates and in the state's eight public colleges and universities.<sup>61</sup> Similarly, in Virginia, only undocumented students with DACA status are eligible for in-state tuition rates, while those without DACA must continue to pay much higher tuition rates.<sup>62</sup>

DACA may also help some students gain access to financial help for higher education. Federal law continues to prohibit all undocumented students from accessing federal financial aid, including Pell Grants and the Federal Work-Study Program. However, with a Social Security number, DACA recipients can fill out the Free Application for Federal Student Aid, or FAFSA, and receive their Estimated Family Contribution number.<sup>63</sup> This information allows undocumented students to petition their school for institutional aid available to all students regardless of their immigration status.

Rule changes such as those noted above have made higher education a reality for many DACA beneficiaries. But the lack of uniform laws regarding undocumented students continues to affect them. In Georgia, the state Board of Regents decided that all undocumented students, including beneficiaries of DACA, would be treated the same. This means that DACA recipients remain banned from enrolling in the state's selective higher-education institutions—those schools that admit fewer students than apply.<sup>64</sup> DACA has helped address some of the problems but still remains an imperfect solution.

## Geography can be destiny

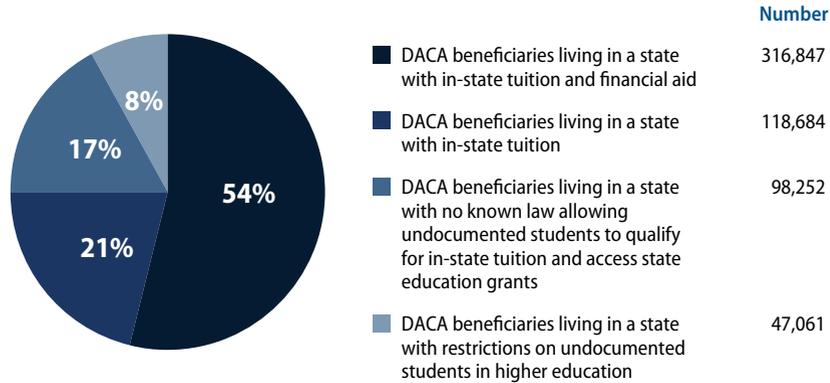
The majority of undocumented students remain concentrated in a few traditional immigrant-receiving states. Texas and California currently account for more than 262,000 of the 587,366 DACA grantees in the country.<sup>65</sup> Over the past 10 years, however, the number of undocumented students living outside these states has increased considerably. In 1990, 42 percent of undocumented immigrants called California home—a number that dropped to 22 percent in 2008.<sup>66</sup>

In the new immigrant-receiving states, the undocumented immigrant population makes up a higher share of immigrants than do documented immigrants. Since 1990 to 2008, North Carolina, Georgia, Nevada, Arkansas, Tennessee, South Carolina, Arizona, and Alabama have seen a 200 percent or higher growth in their immigrant populations. In Colorado, Nevada, Georgia, and North Carolina, the undocumented immigrant populations accounted for about half or more of all immigrants.<sup>67</sup>

Of the states with a 200 percent or higher growth rate in undocumented immigrants, Tennessee is the only one with an in-state tuition-equity law in place.<sup>68</sup> More than 200,000 DACA-eligible young people in Georgia, South Carolina, Mississippi, and Arizona face legal barriers to accessing higher education.<sup>69</sup> In these four states, more than 40,000 beneficiaries of DACA continue to face prohibitions on enrolling in public colleges and universities and accessing in-state tuition rates.<sup>70</sup> Additionally, the undocumented populations in these states are younger than the undocumented population living in California and Texas.<sup>71</sup>

FIGURE 5

Most DACA beneficiaries live in states with tuition equity laws



Source: Author's calculation using U.S. Citizenship and Immigration Services, "Number of I-821D, Consideration of Deferred Action for Childhood Arrivals, by Fiscal Year, Quarter, Intake, Biometrics and Case Status: 2012–2014," available at [http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA\\_fy2014\\_qtr3.pdf](http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA_fy2014_qtr3.pdf) (last accessed September 2014).

Even though a large proportion of undocumented students are now covered by beneficial tuition-equity laws, this geographic dispersion matters, as a growing number of these students live in the 32 states with no tuition-equity laws on the books or states that openly bar undocumented students from enrolling and meeting residency requirements. In addition to the cultural and social barriers that undocumented students face in order to gain a postsecondary education, they must navigate a host of various state laws, from states that openly embrace and try to remove these barriers to states that actively exclude undocumented students.

# Immigration reform and educational attainment

Efforts to change immigration policy at the federal, legislative, and executive levels for undocumented immigrants have been closely linked to higher education. Proposed legislation—such as various versions of the DREAM Act, which provided conditional permanent residency to young immigrants that graduated high school and completed at least two years at a four-year postsecondary institution, and the Senate-passed immigration reform plan, S. 744, which would provide a pathway to legalization and citizenship for undocumented youth—has been tied to their educational attainment.<sup>72</sup>

Tying a pathway to legal status and citizenship to educational attainment makes higher education for undocumented young people a key priority. However, reaching these educational requirements, particularly if tied to a postsecondary education, can be extremely difficult for many undocumented students. Students face a lack of financial assistance, a lack of in-state tuition rates, and a host of other barriers to college enrollment and completion. Under S. 744, close to 50 percent of undocumented young people do not qualify for the accelerated pathway to citizenship because they do not meet the educational requirements.<sup>73</sup>

# Barriers to higher education for undocumented students

Education access for undocumented students can still be a challenge, even in states with policies that allow them to pay in-state tuition rates at public colleges and universities and to receive state financial aid. Barriers to enrolling and completing higher education confront students almost every step of the way.

The first steps that most students take as they move toward enrolling in higher education can deter many undocumented students.<sup>74</sup> Due to the patchwork of laws across states and individual postsecondary institution systems, many undocumented students incorrectly assume they cannot legally attend college in the United States.<sup>75</sup>

Even if they are aware of the individual policies in their states, they may face further structural barriers that reduce the likelihood of attending college, such as a lack of proper mentoring, limited information from postsecondary institutions, a lack of continued financing for tuition and other living costs, the burden of high poverty rates and the need to work, and a fear of sharing information about their and their family members' legal status.

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## High school counselors unaware of policies

In many high schools, college and career counselors are tasked with helping students plan the next phase of their lives. Although these counselors help hundreds of thousands of students every year, many of these professionals are unaware of or lack the training to navigate the specific barriers faced by undocumented students. Many undocumented young people first become aware of their immigration status when they near their high school graduation.<sup>79</sup>

### *Plyler v. Doe*, 1982

This Supreme Court decision guaranteed a K-12 education for all students regardless of their immigration status.<sup>76</sup>

### Joint "Dear Colleague" letter, 2011

This letter from the Department of Education and the Department of Justice affirmed that under federal law, state and local educational agencies are required to provide all children with equal access to public education at the elementary and secondary levels. It warned against practices that discourage the participation of students based on their or their parents' or guardians' actual or perceived citizenship or immigration status.<sup>77</sup>

### *United States v. State of Alabama*, 2012

The 11th Circuit Court of Appeals struck down provisions of Alabama's anti-immigrant legislation H.B. 56, including a section that would have required school officials to ascertain whether students at the high, middle, and elementary public school levels were undocumented.<sup>78</sup>

Every year, around 3.3 million students graduate from high school; around 65,000 of them are undocumented.<sup>80</sup> Because undocumented students make up only a small number of those graduating high school, they can easily slip through the cracks. Even with the relatively small number of undocumented high school graduates, the National Association for College Admission Counseling found that more than 71 percent of public colleges and universities had received applications from them for enrollment.<sup>81</sup> However, most high school college and career counselors remain untrained to properly advise students who might require more assistance because of their immigration status.

Confusing state policies can also make it difficult for counselors to accurately share the most important and up-to-date information with undocumented students. For instance, prior to 2014, most four-year state colleges in Virginia required applicants to submit proof of citizenship or legal residency for enrollment and could refuse admission to students who failed to provide proper documentation.<sup>82</sup> However, there was no Virginia law mandating this practice, and undocumented students could enroll as out-of-state students who remained ineligible for state financial aid and in-state tuition rates.<sup>83</sup> Without proper counseling, many undocumented students in Virginia believed that state law prohibited them from applying and enrolling.<sup>84</sup> In April 2014, however, Virginia Attorney General Mark Herring (D) changed state policy to allow beneficiaries of the Deferred Action for Childhood Arrivals program to qualify for in-state tuition rates at public colleges and universities.<sup>85</sup> It is crucial that high school counselors and advisors keep up to date with changes to immigration policy to ensure that they can properly advise undocumented students.

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### Misinformation and lack of information at postsecondary institutions

In deciding which college or university to attend, undocumented students often have to face bureaucratic hurdles and individual school-level policies before enrollment. Undocumented students in the 32 states without clear tuition-equity laws are allowed to apply to colleges and universities, but without a Social Security number, they can have their applications rejected even though there is no specific state law barring their enrollment.<sup>86</sup> Moreover, in a sample poll by the National Association of Student Financial Aid Administrators, 38 percent of financial aid administrators at public institutions did not know if they had an explicit policy that admits undocumented students.<sup>87</sup>

FIGURE 6

## Many college administrators do not know state policies regarding undocumented students

Share of the 3.3 million students that graduate from high school every year that are undocumented



Share of public colleges and universities that have received applications from undocumented students for enrollment



Share of financial aid administrators at public institutions that did not know if they had an explicit policy that admits undocumented student



Source: National Center for Education Statistics, "Back to school statistics," available at <http://nces.ed.gov/fastfacts/display.asp?id=372> (last accessed September 2014). National Association for College Admission Counseling, "Undocumented Students in the College Admission Process" (2007), available at <http://www.nacacnet.org/issues-action/LegislativeNews/Documents/UndocumentedStudents.pdf>. National Association of Student Financial Aid Administrators, "Reconciling Federal, State, and Institutional Policies Determining Educational Access for Undocumented Students: Implications for Professional Practice" (2012), available at [http://www.nasfaa.org/states/undocumented/Inclusive\\_State\\_Policy\\_Environments\\_\\_Undocumented\\_Students.aspx](http://www.nasfaa.org/states/undocumented/Inclusive_State_Policy_Environments__Undocumented_Students.aspx).

In most cases, colleges and universities do not list any information that pertains to the enrollment process for undocumented students. Very few institutions of higher education have their in-state tuition policies detailed on their websites, and even fewer have information regarding scholarships or financial aid options for undocumented students.<sup>88</sup> Additionally, undocumented students must often complete residency forms to prove they are eligible for in-state tuition rates, but these forms are not readily found on enrollment websites, and the associated processes are not outlined in student handbooks or catalogs.<sup>89</sup> These hurdles can make students believe that they are not eligible for enrollment, especially in states without tuition-equity policies.

This wide range of different policies and guidelines at colleges and universities can prevent undocumented students, especially those without a deep network of connections, from knowing at which schools they can enroll. In most cases, undocumented students are often the first person in their family to attend college and face the added difficulty of navigating higher education as first-generation college students.<sup>90</sup>

## Immigrant youth advocacy

Over the past decade, undocumented youth have pushed federal, state, and local governments to expand pro-immigrant legislation. Since the DREAM Act was first introduced in 2001, undocumented young people have led the efforts for its passage, failing by just five votes in the Senate in 2010.<sup>91</sup> They were successful, however, in getting President Obama to begin the DACA program in 2012.<sup>92</sup> In the first three months of 2014, undocumented students successfully won in-state tuition rates in New Jersey and access to state financial aid in the state of Washington.<sup>93</sup>

Undocumented students and their allies have also pushed individual colleges and universities to expand educational opportunities to

more students. In Michigan, following a student-led campaign, the Board of Regents of the University of Michigan decided to allow undocumented students to pay in-state tuition rates at their flagship school and their satellite campuses in Flint and Dearborn, and some of these schools may provide financial aid. Eastern Michigan University and Wayne State University followed suit soon after.<sup>94</sup>

Efforts such as these have led to expansive policy changes throughout the country. Indeed, immigrant youth advocacy aimed at state capitals and on college and university campuses has made education access a priority.

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### Financing higher education remains a challenge

The cost of college is a concern for all students, but undocumented students face particular financial challenges when it comes to accessing higher education. From the 2003-04 school year to the 2013-14 school year, the average published tuition and fees at public four-year institutions rose by an average of 5 percent per year beyond increases in the Consumer Price Index and by 3 percent per year at public two-year institutions.<sup>95</sup> Higher education has become more financially unattainable for all students, but these price increases can be even more burdensome for undocumented students. Undocumented students remain ineligible for all forms of federal financial aid, including Pell Grants, the Federal Work-Study Program, and federal loans. This is particularly troublesome considering that most states do not provide any education grants for college for undocumented students. As a result, even the in-state tuition rate exceeds the financial reach of thousands of undocumented students.

Currently, long-term, permanent residents and U.S. citizens have access to federal Pell Grants that help cover a large percentage of higher-education costs. In the 2012-13 school year, the average Pell Grant totaled \$3,650, while 28 percent of recipients received the maximum \$5,536 in Pell Grant funding.<sup>96</sup> In the 2013-14 school year, the maximum Pell Grant alone covered 63 percent of the average tuition and fees for a public four-year institution.<sup>97</sup> Without access to Pell Grants, undocumented students are excluded from one of the key programs that helps millions of students finance their higher education.

FIGURE 7

## Undocumented students are excluded from all federal education benefits, including Pell Grants

The inflation-adjusted maximum Pell Grant for the 2013–14 school year was \$5,536. This covered:

Share of average public four-year institution tuition and fees



Share of average public four-year institution tuition and fees and room and board



Source: College Board, "Trends in Student Aid" (2013), available at <https://trends.collegeboard.org/sites/default/files/student-aid-2013-full-report.pdf>.

What's more, undocumented students face challenges receiving private loans to pay for higher education. The number of banks willing to consider undocumented students and their parents for private student loans is limited. Even at these banks, in order to qualify for a loan, undocumented students and their parents generally need to have a co-signer who is a U.S. citizen or permanent legal resident.<sup>98</sup> Private student-loan rates, however, carry much higher interest rates. One private student-loan rate, for example, had an 8.25 percent interest rate if payments were deferred while a student was in school.<sup>99</sup> Students eligible for federal financial aid, however, could receive a federally subsidized Stafford Loan for the 2011-12 school year with a 3.5 percent interest rate.<sup>100</sup>

Additionally, some undocumented students have resorted to paying for their tuition and other college expenses using a credit card.<sup>101</sup> The average annual percentage rate, or APR, for fixed-rate credit cards can be as high as 13 percent or even higher.<sup>102</sup> This can lead to extremely high rates of student debt that will take years to pay off. Overall, undocumented students have fewer options for student loans and ultimately must pay much higher interest rates and substantially more money in fees if they decide to use a private loan to finance their higher education.

## California DREAM Loan Program

California is trying to address the federal exclusion of undocumented students in student-loan programs. In October, Gov. Jerry Brown (D) signed legislation to create the California DREAM Loan Program.

Commencing with the 2015-16 academic year, a student attending a participating campus of the University of California or the California State University may receive a loan to help pay for the cost of college, referred to as a DREAM loan. Under the program, students, regardless of immigration status, may borrow up to \$4,000 per year, with a lifetime maximum of \$20,000.<sup>103</sup> The loans are structured to mirror

the federal Direct Subsidized Loans for undergraduates. DREAM loans carry the same interest rates as the federal loan and come with a standard 10-year repayment period that does not accrue interest while a student is enrolled for at least half-time studies.

The loan is meant to address the estimated gap in financial aid packages that exists for undocumented students compared with other students with similar financial circumstances. At the University of California, that gap is roughly \$5,000 to \$6,000 per year; at the California State University, it is about \$3,000 annually.<sup>104</sup>

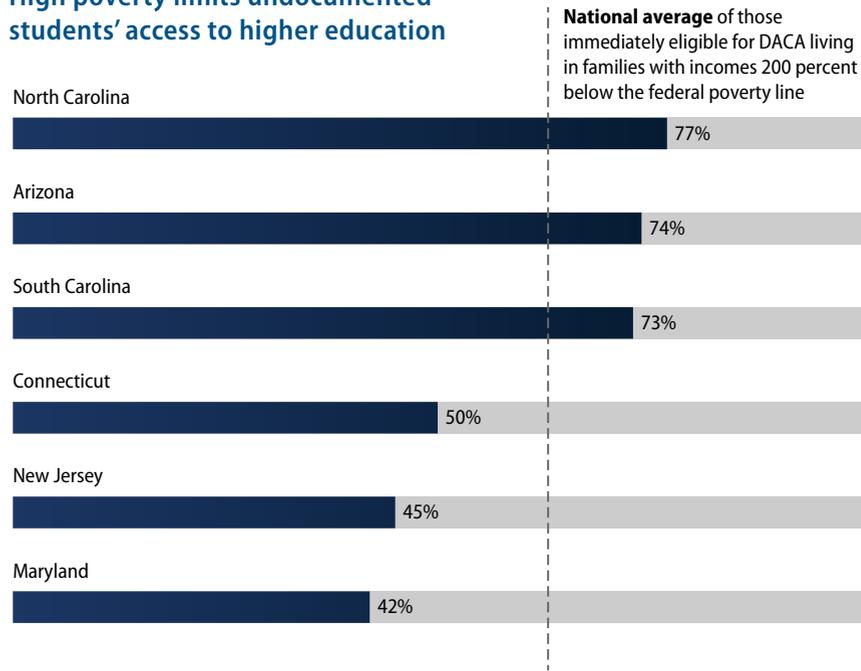
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### Poverty and higher education are related

Although it is not directly linked to their legal status, undocumented students face high rates of poverty. More than 40 percent of undocumented children in the United States live below the federal poverty line—twice the rate of children born to U.S.-born parents.<sup>105</sup> A recent survey of DACA beneficiaries found that 77 percent of respondents had personal incomes below \$25,000.<sup>106</sup> Similarly, the Migration Policy Institute estimates that 63 percent of immigrant youth immediately eligible for DACA live in families with annual incomes below 200 percent of the federal poverty line.<sup>107</sup> Poverty continues to be a major factor for young people considering higher education, with middle- and upper-income students remaining far more likely to go to college.<sup>108</sup>

FIGURE 8

### High poverty limits undocumented students' access to higher education



Source: Jeanne Batalova and others, "DACA at the Two-year Mark: A National and State Profile of Youth Eligible and Applying for Deferred Action" (Washington: Migration Policy Institute, 2014), available at <http://www.migrationpolicy.org/sites/default/files/publications/DACA-Report-2014-FINALWEB.pdf>.

Many undocumented young people must also choose between work and higher education. Undocumented young people often have to work to help financially support their families given the high rates of poverty in these families.<sup>109</sup>

Additionally, DACA recipients are often the only people with work authorization in families where more than one family member is undocumented. Indeed, more than 80 percent of DACA recipients reported having an undocumented parent, and more than half reported having undocumented siblings.<sup>110</sup> Undocumented students, with or without DACA, often have to decide between helping provide for their families and pursuing higher education.<sup>111</sup>

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### Undocumented students fear sharing information

Some undocumented students fear revealing their and their family members' immigration status. Prior to the announcement of Deferred Action for Parental Accountability, a recent survey indicated that 66 percent of DACA beneficiaries still report feeling anxious or angry because their family cannot qualify for relief.<sup>112</sup>

DAPA is a program announced by President Obama to provide work permits and relief from deportation to the parents of U.S. citizens and lawful permanent residents.<sup>113</sup> DAPA, however, does not include the parents of DACA recipients.<sup>114</sup> These fears affect undocumented students' decisions to enroll in higher education.

A lack of legal status tends to keep people in the shadows when it comes to available services and programs.<sup>115</sup> Many undocumented young people are hesitant to reveal their immigration status during enrollment in higher education, even if they are legally allowed to do so.<sup>116</sup> However, every state with an in-state tuition law, except New Mexico, requires undocumented students to sign an affidavit stating that they will adjust their immigration status as soon as they are eligible.<sup>117</sup> Although some administrators may be trained to respond to concerns and can assure students that signing their affidavit will not reveal their immigration status to federal immigration authorities, many students are nonetheless fearful of the administrative process related to enrollment.<sup>118</sup> Enrollment documents or counselors may ask for a Social Security number even though it is not a required part of the application.<sup>119</sup> Additionally, some schools may inquire about the financial status or Social Security number of parents. This could also inadvertently reveal a student to be undocumented if he or she provides the information.<sup>120</sup>

As a result, many students see community colleges or public schools as an extension of government entities. Students may fear that revealing any information about their immigration status or that of their families may inadvertently hurt them. Some undocumented students in states with tuition-equity policies even refuse to sign their affidavit and prefer to pay out-of-state tuition rates to protect their families from any disclosure.<sup>121</sup>

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## Challenges to staying in school and graduating

Once enrolled in a postsecondary institution, undocumented students continue to face unique challenges due to their legal status. College affordability continues to remain a very real concern beyond the initial enrollment period as the indirect costs of education increase. Additionally, changing state policies

## Deferred Action for Parental Accountability<sup>122</sup>

Announced in November 2014 by President Obama, DAPA temporarily defers deportations from the United States for eligible undocumented parents of U.S. citizens or lawful permanent residents, granting them access to renewable three-year work permits and Social Security numbers. An estimated 3.5 million undocumented parents are expected to qualify for the program.<sup>123</sup>

In addition to the requirements listed below, undocumented parents must pay filing and biometric fees, the amounts of which have not yet been announced. To be eligible for DAPA, an undocumented parent must:

- Have been present in the country on November 20, 2014
- Be the parent of a U.S. citizen or lawful permanent resident
- Have continuously lived in the United States since January 1, 2010
- Not have been convicted of a felony offense
- Not have been convicted of a significant misdemeanor offense or three or more misdemeanor offenses
- Not have posed or pose a threat to national security or public safety

have left many students unsure about their enrollment status. Furthermore, a general lack of support from campus administration, as well as from home, can deter undocumented students from graduating.

#### *Financial barriers for students are often ongoing*

For undocumented students, private scholarships and loans may be temporary. Many scholarships cover only the first year or two of college and can leave undocumented students without access to funds to continue paying for their tuition or living expenses.<sup>124</sup> This leads to many undocumented students taking whole semesters or years off from their schooling in order to work and save money to return to school or to help pay down some of the college debt they have already incurred.

Unlike the wider student population—which cites lack of academic preparation as the main reason for leaving school—undocumented students typically cite finances as the most important factor.<sup>125</sup> It is not uncommon for undocumented students to remain in school for 7 to 10 years in order to earn a bachelor’s degree.<sup>126</sup> The more time students spend out of school, the more likely they will not return to finish their degrees.<sup>127</sup>

Additionally, undocumented students have lower completion rates for bachelor’s degrees compared with their U.S.-citizen counterparts. This finding suggests that at some point after enrollment, undocumented students experience unanticipated burdens to completing their bachelor’s degrees—most commonly financial in nature—leading to greater dropout rates.<sup>128</sup>

#### *Changing state policies leave students in the dark*

States with anti-immigrant lawmakers have consistently tried to set up barriers for undocumented students. In Indiana, H.B. 1402, which passed in 2011, required that students be lawfully present in order to receive in-state tuition rates at public colleges and universities. This meant that undocumented students enrolled in the state’s public colleges and universities now had to pay out-of-state tuition rates.<sup>129</sup> However, in 2013, Indiana lawmakers passed S. 207, which grandfathered undocumented students enrolled in college prior to the implementation of H.B. 1402, allowing them to remain eligible for in-state tuition rates. However, undocumented students enrolling after the passage of H.B. 1402 had to pay out-of-state tuition rates.<sup>130</sup> This meant that some undocumented students in Indiana paid out-of-state tuition rates, while others paid in-state tuition rates. Undocumented students graduating from Indiana high schools and their counselors may have found it difficult to know if they qualified for in-state tuition rates based on these changes.

Over the past five years, state legislators in Arizona, Arkansas, Iowa, and Missouri have tried but failed to bar undocumented students from receiving in-state tuition rates.<sup>131</sup> These efforts could have confused undocumented students in those states regarding their higher-education options. Changes to residency laws can leave undocumented students confused about their rights and eligibility for enrollment with in-state tuition rates. It also creates confusion among high school counselors and college administrators over how to properly advise undocumented students and create long-term plans to engage these students. To address the confusion in Arkansas, the state's attorney general clarified that state and federal law did not prohibit undocumented students from enrolling.<sup>132</sup> Similar action by other state attorney generals would provide clarity.

#### *Lack of institutional support*

Finally, as is the case for all college students, a healthy and supportive environment can help increase graduation rates for undocumented students.<sup>133</sup> At some colleges and universities, undocumented students often find themselves alone and without student and administrative support. Only a handful of schools—most notably the University of California, Los Angeles, and the University of California, Berkeley, as well as the University of Texas at Austin—provide clear support to undocumented students through programs, scholarships, and mentorships.<sup>134</sup> The University of Texas at Austin has partnered with its immigrant-youth-led organization, University Leadership Initiative, or ULI, to help support undocumented students on campus. The school operates a webpage with specific information for undocumented students and sponsors ULI students to train and support incoming students, faculty and administrators, and students and counselors at nearby high schools.<sup>135</sup>

The vast majority of undocumented students, however, will not have the opportunity to attend such selective and supportive schools. Undocumented students often have to finance their higher education, find legal support, and maintain their physical and mental health while pursuing a degree with little or no support—essentially, by themselves.<sup>136</sup> Indeed, undocumented students have often experienced mental health issues due to their immigration status and require support and advocacy that many school administrators are not trained to provide. Often, these students will rely on informal networks of support and, in some cases, forgo mental and physical health checkups due to costs and the burdens of other financial responsibilities.<sup>137</sup>

# Recommendations

Undocumented students face immense hurdles to accessing higher education. The patchwork of different federal, state, local, and university-specific policies has left hundreds of thousands of undocumented students without a clear pathway forward. Instituting sound policy changes at the federal, state, and postsecondary institutional levels can ensure that undocumented young people have the ability to seek higher education. The following recommendations are steps that can be taken at multiple levels to make sure these students can achieve their college ambitions.

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## Federal policy actions

### Pass immigration reform legislation with beneficial education provisions

Immigration reform with a pathway to legalization and eventual citizenship can have far-reaching benefits for millions of undocumented young people. Legal permanent residency and citizenship will allow students to access federal education benefits, among other programs. However, future immigration reform should make it easier for undocumented students to continue their education while they are in the legalization process. Future immigration reform legislation should:

#### *Repeal Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act*

Section 505 of the IIRIRA prohibits states from making undocumented students eligible for any postsecondary education benefit on the basis of state residency, unless a U.S. citizen from another state would also be eligible for that benefit.<sup>138</sup> Immigration reform should repeal this section of the IIRIRA to allow states greater ability to change their residency requirements to let undocumented students pay in-state tuition rates.

*Allow undocumented immigrants access to all federal education benefits without delay*

Future immigration reform legislation should eliminate all bans on access to federal education benefits, including Pell Grants, the Federal Work-Study Program, and federal student loans. These education benefits make up a large percentage of how students finance their higher education, and all students should have equal access to this assistance. Previous immigration reform proposals excluded undocumented students from accessing Pell Grants during their waiting period to enter into long-term permanent-residence status.<sup>139</sup> During this waiting period, undocumented immigrants were required to meet certain benchmarks, such as demonstrating continuous physical presence in the country, and have no serious criminal convictions before they could qualify to become long-term permanent residents.<sup>140</sup> Any future immigration reform legislation should make undocumented students immediately eligible for all federal education benefits the moment they begin the pathway to legalization.

*Tie education requirements for legalization to high school graduation or GED completion*

Like the Deferred Action for Childhood Arrivals program, any future pathway to legalization for undocumented young people should rely on high school graduation or GED completion as an education requirement. S. 744 allowed undocumented young people to qualify for an expedited pathway to legalization under special provisions—most notably, that they complete at least two years of college or four years of military service. Requiring a postsecondary education to qualify for an expedited pathway to legalization needlessly excludes hundreds of thousands of undocumented young people that face high barriers in enrolling and completing a college degree. Immigration reform should allow undocumented students to qualify for an expedited pathway to legalization with a high school diploma or GED.

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## Administrative actions

### Allow beneficiaries of DACA to access Pell Grants

Although the Higher Education Act of 1965 requires citizenship or permanent residency to receive Pell Grants<sup>141</sup> and other types of federal financial aid grants, the administration can take steps to expand financial aid resources to DACA beneficiaries. Congress authorized the Experimental Sites Initiative under Section 487A(b) of the HEA to allow the secretary of education to create initiatives or

“experiments” that waive regulatory requirements for student-aid disbursement at postsecondary institutions.<sup>142</sup> One current experiment, while not specifically related to undocumented students, allows students with bachelor’s degrees who enroll in a vocational or career program of study of one year or less to qualify for the federal Pell Grant program.<sup>143</sup> Prior to this experiment, Section 401(C)(1) of the HEA did not allow bachelor’s degree students to qualify for a federal Pell Grant.<sup>144</sup> This is just one example of how the Department of Education waived regulatory requirements of the HEA.

The secretary of education can create an experiment that waives the citizenship or permanent residency requirement to receive Pell Grants. The Department of Education should use the secretary’s experimental site authority to make Pell Grants available to undocumented students granted the ability to live and work in the United States under DACA.

#### Expand Deferred Action for Parental Accountability to parents of DACA recipients

The administration should allow parents of DACA recipients to qualify for DAPA. There is no legal bar to exclude these parents, and up to 70,000 more people would be able to receive work authorization and relief from deportation.<sup>145</sup> This expanded relief would mean greater financial security for more undocumented students, as their parents would be able to navigate the workplace without fear.

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#### State policy actions

##### Expand the number of states with in-state tuition policies

State legislatures should continue to pass state-based, in-state tuition rates for all residents, including undocumented students. An enumerated policy for immigrant young people will help reduce confusion among institutions of higher education and will allow high school counselors and college advisors to better assist their students. Moreover, greater state support for all graduates to pursue higher education can increase the number of undocumented young people who could potentially qualify for a pathway to legalization and citizenship.

## Complement in-state tuition policies with state financial aid

Access to in-state tuition rates without corresponding access to financial aid leaves many undocumented young people locked out of higher education. States with in-state tuition policies should expand their state financial aid resources to all students that meet residency requirements. Providing greater availability to state-based financial aid to undocumented students further reinforces a state's commitment to greater postsecondary education access.

## Require professional development for school personnel at all levels

States should pass legislation that requires high school guidance counselors, college admissions officers, and financial aid counselors to be trained and knowledgeable on the postsecondary education opportunities available for immigrant youth. Such training will help expand college access to all immigrant youth, not just undocumented students, and will address the need for guidance on matters of postsecondary education.

This legislation could be modeled on the Illinois DREAM Act. This legislation, signed in 2011, establishes a nine-member commission that represents students, college and university administrators and faculty, and other individuals committed to advancing educational opportunities for immigrants and the children of immigrants.<sup>149</sup> The Illinois DREAM Act requires high school counselors and college admissions and financial aid counselors to undergo training to make sure they are equipped with the most up-to-date information on educational opportunities for immigrant youth in the state.<sup>150</sup>

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## City policy actions

### Create systems to facilitate enrollment in DAPA

Although parents of DACA recipients will not be able to enroll in DAPA, many undocumented students still have siblings who are U.S. citizens or long-term permanent residents; this will allow their parents to enroll.<sup>151</sup> This means that many of the parents of DACA recipients will still qualify for DAPA.<sup>152</sup> Currently, many undocumented young people often have to choose between getting a higher education and working so that they can support their families. Giving

family members work authorization can help decrease their workplace vulnerability and increase their labor-market mobility; this gives them the opportunity to realize their skills' wage potential and see their earnings rise.<sup>153</sup> This policy will help better the lives of a greater number of undocumented immigrants and their families and will allow parents a chance to help their children financially as they pursue higher education.

Cities can do a great deal to successfully streamline the process for DAPA enrollment. Chicago, Illinois, for example, has led the way in approval for DACA. Metropolitan-level data show that 93 percent of DACA applicants have been approved—the highest among the largest 10 metropolitan areas in the country.<sup>154</sup> This was done through a consistent effort by local authorities that pursued aggressive outreach methods with local community-based organizations.<sup>155</sup> In many ways, DACA has been a test run for the broader DAPA program. School districts all over the country have created systems to disseminate information and release requests for documents that have aided hundreds of thousands of young people.<sup>156</sup>

Cities have done a great deal to successfully streamline the process for DACA recipients to get the information they need to apply for the program, and their success can continue with DAPA.<sup>157</sup> Similar outreach to work with schools, housing and planning offices, hospitals, health departments, public libraries, utility companies, departments of motor vehicles, and more can ensure that qualifying parents will enroll.<sup>158</sup>

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## College and university actions

Colleges and universities should train advisors and other administrators to better address the needs of undocumented students. They should also be taught to create a more welcoming campus environment.

More significant outreach must be done at the institutional level to make sure undocumented students in local communities are aware and take advantage of tuition-equity policies. Colleges and universities should have designated financial aid counselors available to discuss any issues that undocumented students face and should have designated websites to address their financial aid issues. Colleges and universities should also partner with immigrant-youth-led organizations to create annual trainings for staff and administrators about the legal requirements of their

respective states' tuition-equity policies. Institutions of higher education can also partner with local high schools to make sure career counselors have access to all of the relevant information for undocumented students. Additionally, colleges and universities with a significant number of undocumented students should create student-led programs to support undocumented students.

### Postsecondary institutions should admit undocumented immigrants and expand financial aid opportunities for these students

In states with hostile legal environments for undocumented immigrants, university systems can take an active role in expanding access for undocumented students. In Arizona and Michigan, local community colleges and state flagship colleges and universities have taken the lead in expanding education access through decisions by their boards of regents. Colleges and universities can also remove requirements for Social Security numbers to receive institution-sponsored scholarships and financial aid.

# Conclusion

All students deserve a fair chance to access higher education regardless of their immigration status. Undocumented students face enormous hurdles in their pursuit of higher education that can be partially overcome with a concerted effort by school counselors, mentors, and college and university administrators, along with tuition-equity laws.

Our current broken immigration system has left tens of thousands of undocumented students with limited options to seek a postsecondary education. Although many states have taken action to help remedy the situation, other states have actively excluded undocumented students from an array of college resources. This inequality of access comes as more undocumented young people are growing up and attending school in states with hostile immigration laws, including laws limiting postsecondary education access.

However, as this report highlights, there are multiple steps that the federal government, state governments, and individual colleges and universities can take to make sure that undocumented students enter and thrive in postsecondary institutions. The current status quo leaves undocumented students locked out of colleges, universities, and other institutions of higher education, which creates a loss not only for them but also for the country.

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## About the author

**Zenen Jaimes Pérez** is a Policy Advocate for Generation Progress, where his current research focuses on access to higher education for immigrant youth, campus sexual assault, and LGBT rights. Zenen holds a bachelor of science degree in foreign service from Georgetown University. A native of Austin, Texas, he previously interned at Advocates for Youth, where he focused on sex education; lesbian, gay, bisexual, and transgender, or LGBT rights; HIV/AIDS; and abortion access for young people. He also served as a leadership intern with the Gay & Lesbian Victory Institute and was a Victory Congressional intern in the Senate.

Zenen has worked with numerous national organizations that focus on coalition work between LGBT, immigration, and Latino groups. He is the proud son of Mexican immigrants to the United States.

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# Appendix

This appendix provides information on a selection of state laws and policies that affects access to in-state tuition and financial aid for undocumented students. The wide array of laws may leave many undocumented students unaware of their rights.

## *Alabama*

### **Legislation**

The Alabama State Legislature passed H.B. 56 in 2011, which has a provision banning students who cannot show that they are either a lawful permanent resident or have a nonimmigrant status from enrolling in or attending Alabama's public postsecondary education institutions.<sup>1</sup>

### **Other information**

In-state tuition is available for DACA recipients in: community colleges; University of Alabama at Huntsville, Birmingham, and Tuscaloosa; University of Montevallo; Troy University at Dothan and Troy; and Auburn University at Montgomery and Auburn.<sup>2</sup>

## *Alaska*

### **Legislation**

The Alaska House of Representatives proposed H.B. 39 in 2003, which would have required students to be residents of the state for at least one year and U.S. citizens or legal aliens to receive in-state tuition.<sup>3</sup>

## *Arizona*

### **Legislation**

In 2006, the state legislature passed Proposition 300, barring unauthorized immigrant students from in-state tuition benefits.<sup>4</sup>

### **Other information**

In-state tuition is available for DACA recipients in the Pima Community College and the Maricopa Community Colleges.<sup>5</sup>

## Arkansas

### Legislation

The Arkansas state senate proposed S.B. 915 in 2013, which would have allowed undocumented students to pay in-state tuition if they attended an Arkansas secondary educational institution for three years.

### Other information

Undocumented students pay out-of-state tuition in the University of Central Arkansas unless they live in university housing.

## California

### Legislation

- The California State Legislature passed A.B. 540 in 2001, which allows qualifying undocumented students to pay in-state tuition.<sup>6</sup>
- In 2013 the legislature passed A.B. 131, or the California DREAM Act. The law holds that all students who are exempt from nonresident tuition and that are deemed to be in financial need shall be eligible for all financial aid.<sup>7</sup>

### Other information

California prohibits law-enforcement agencies from detaining undocumented immigrants for deportation if they have been arrested for a minor crime.<sup>8</sup>

## Colorado

### Legislation

The Colorado General Assembly passed S.B. 13, or Colorado ASSET, in 2013, which allows qualifying undocumented students to pay in-state tuition.<sup>9</sup>

### Other information

Six previous attempts over the past decade had failed to change the state policy.

## Connecticut

### Legislation

The Connecticut General Assembly passed H.B. 6390 in 2011, which allows qualifying undocumented students to pay in-state tuition.<sup>10</sup>

### Other information

Connecticut statutes require 15 percent of tuition revenue to be used for need-based institutional aid. The Connecticut Office of Higher Education and Board of Regents currently uses the FAFSA, which requires a Social Security number. Therefore, undocumented students pay into institutional aid but cannot access need-based assistance.<sup>11</sup>

## *District of Columbia*

### **Legislation**

The District of Columbia has not introduced legislation to provide in-state tuition or financial aid to undocumented students.

### **Other information**

The District of Columbia does not grant or prohibit in-state tuition for undocumented students at the University of the District of Columbia—currently the only public university in Washington, D.C.

## *Delaware*

### **Legislation**

In 2014, the Delaware Senate proposed S.B. 183, which would have allowed undocumented students to pay in-state tuition if they attended a Delaware secondary educational institution for three years. The bill would also have given undocumented students access to some state scholarship programs.<sup>12</sup>

### **Other information**

Undocumented students may attend the Delaware Technical Community College and the University of Delaware with in-state tuition.

## *Florida*

### **Legislation**

In 2014, the Florida legislature passed H.B. 851, which allows undocumented students to qualify for out-of-state fee waivers if they meet all of the requirements.<sup>13</sup>

### **Other information**

A student granted an out-of-state fee waiver is still considered a non-resident student, is not eligible for financial aid, and cannot be reported as a resident for tuition purposes.

## *Georgia*

### **Legislation**

- The Georgia General Assembly passed S.B. 492 in 2008, which bars unauthorized immigrant students from in-state tuition benefits.<sup>14</sup>
- The Board of Regents of the University System of Georgia adopted policy 4.1.6 in 2010 that prohibits most selective institutions—schools that admit fewer than apply—from admitting undocumented students.<sup>15</sup>

**Other information**

The Georgia Board of Regents states that immigrants with “lawful presence” can receive in-state tuition. Although the Department of Homeland Security confers “lawful presence” to DACA recipients, the Georgia Board of Regents does not recognize this and denies these students in-state tuition and enrollment in selective colleges and universities.<sup>16</sup>

*Hawaii***Legislation**

In 2013, the Hawaii State Legislature passed Hawaii Statute 304A-402, giving the University of Hawaii Board of Regents power to waive or reduce tuition fees for nonresidents. The University of Hawaii system has allowed undocumented students to qualify for in-state tuition, financial assistance, and university program participation.<sup>17</sup>

**Other information**

Although there is no state policy for access to in-state tuition rates and financial aid for undocumented students, the University of Hawaii system operates 10 campuses and covers all public institutions in the state.<sup>18</sup>

*Idaho***Legislation**

In 2007, the Idaho House of Representatives proposed H.B. 6390, which would have allowed undocumented students to pay in-state tuition if they attended an Idaho secondary educational institution for four years.<sup>19</sup>

*Illinois***Legislation**

- The Illinois General Assembly passed H.B. 0060 in 2003, which allows qualifying undocumented students to pay in-state tuition.<sup>20</sup>
- In 2011, the General Assembly passed S.B. 2185, or The Illinois DREAM Act. The law establishes a DREAM Commission to advance the educational opportunities for immigrants and children of immigrants; creates the Illinois DREAM Fund to provide financial assistance for postsecondary education; opens college savings plans to undocumented families; and requires trainings for high school counselors and college admission officers in educational opportunities for immigrant youth.<sup>21</sup>

### **Other information**

The Illinois DREAM Fund will not use any taxpayer funding.

### *Indiana*

#### **Legislation**

- The Indiana General Assembly passed H.B. 1402 in 2011, barring unauthorized immigrant students from in-state tuition benefits.<sup>22</sup>
- In 2013, the assembly passed S.B. 207 in 2013, which allows undocumented students, who were enrolled in an Indiana college or university before July 1, 2011, to receive in-state tuition.<sup>23</sup>

### **Other information**

- S.B. 207 permits undocumented students who had already enrolled in school to receive in-state tuition benefits, allowing a small number of undocumented students to benefit.
- Prior to H.B. 1402, undocumented students received in-state tuition benefits from Purdue University and Ivy Tech Community College.

### *Iowa*

#### **Legislation**

The Iowa General Assembly proposed H.F. 2192 in 2012, which would have allowed undocumented students to pay in-state tuition if they attended an Iowa educational institution for five years.<sup>24</sup>

### *Kansas*

#### **Legislation**

The Kansas State Legislature passed H.B. 2145 in 2004, which allows qualifying undocumented students to pay in-state tuition.<sup>25</sup>

### **Other information**

Two legislative challenges and a lawsuit tried to roll back the tuition benefits for undocumented students.

### *Kentucky*

#### **Legislation**

The Kentucky State Legislature allows the Kentucky Council on Postsecondary Education to decide in-state tuition policies. In 2008, the council elected to let individual colleges and universities to set their own rules.<sup>26</sup>

## *Louisiana*

### **Legislation**

Louisiana has not introduced legislation to provide in-state tuition or financial aid.

## *Maine*

### **Legislation**

Maine has not introduced legislation to provide in-state tuition or financial aid.

## *Maryland*

### **Legislation**

- The Maryland General Assembly passed S.B. 167, or the Maryland DREAM Act, in 2011, allowing qualifying undocumented students to pay in-state tuition.<sup>27</sup>
- Question 4 was passed with petition signatures in 2012, forcing the initial Maryland DREAM Act into a statewide referendum, which voters approved by an overwhelming majority. It is the first time a state DREAM Act was approved directly by voters.

### **Other information**

Maryland is the only state that requires undocumented students to attend community college first before they receive in-state tuition benefits at four-year public colleges and universities.

## *Massachusetts*

### **Legislation**

In 2011, the Massachusetts legislature proposed S.B. 577 and H.B. 1078. The bills would have allowed undocumented students to pay in-state tuition if they met residency requirements.<sup>28</sup>

### **Other information**

The Massachusetts Department of Higher Education work permits make individuals eligible for in-state tuition regardless of immigration status.

## *Michigan*

### **Legislation**

Michigan has no set policy that allows undocumented students access to in-state tuition.

**Other information**

Currently, the governing bodies of the University of Michigan, Western Michigan University, Eastern Michigan University, Washtenaw Community College, and Kellogg Community College have formally adopted policies to allow undocumented students access to in-state tuition and some institutional aid programs.<sup>29</sup>

*Minnesota***Legislation**

The Minnesota State Legislature passed S.F. 723 in 2013, which allow qualifying undocumented students to pay in-state tuition and receive privately funded aid through public colleges and universities.<sup>30</sup>

*Missouri***Legislation**

The Missouri Legislature passed H.B. 390 in 2009, which prohibits public colleges and universities from providing any financial aid to undocumented students.<sup>31</sup>

**Other information**

- Undocumented students can enroll in St. Louis Community College using resident tuition rates.
- DACA beneficiaries can enroll at the University of Missouri, Kansas City, and the Metropolitan Community College system at in-state-tuition rates.

*Mississippi***Legislation**

The Mississippi House of Representatives proposed H.B. 445 in 2012, which would have allowed undocumented students to pay in-state tuition if they attended and graduated from a Mississippi secondary educational institution and resided in the state for a continuous period of five years.<sup>32</sup>

**Other information**

DACA beneficiaries can enroll with in-state tuition at community colleges, but policies vary widely between each school.

## Montana

### Legislation

In 2012, the Montana Legislature passed H.B. 638, a voter approved law that denies some state services and benefits to anyone who cannot prove their citizenship or legal status. It requires employers in the state to check into applicants' immigration statuses if they apply for certain types of state services or benefits. If they cannot confirm your immigration status, this law requires them to report you to immigration authorities. The law explicitly denies admission and financial aid to undocumented students.<sup>33</sup>

The law was enjoined by Montana's First Judicial District Court in the summer of 2014, meaning the majority of the law has been struck down.

### Other information

The university system has declared that it is not bound by L.R. 121 and intends to admit eligible students regardless of their immigration status.

## Nebraska

### Legislation

The Nebraska Legislature passed L.B. 239 in 2006, which allows qualifying undocumented students to pay in-state tuition.<sup>34</sup>

## Nevada

### Legislation

The Nevada Senate proposed S.B. 415 in 2007, which would have banned undocumented students from paying in-state tuition and receiving state financial aid, including the Governor Guinn Millennium Scholarship Program.<sup>35</sup>

### Other information

- Undocumented students are eligible for the Governor Guinn Millennium Scholarship Program, which offers as much as \$10,000 in financial aid.
- Community College of Southern Nevada's enrollment application asks if students are citizens, but the school is known to not closely conduct background checks.
- Undocumented students may be eligible for the Western Undergraduate Exchange Program—which charges nonresident students 150 percent of the in-state tuition rate—at the University of Nevada, Las Vegas.

## *New Hampshire*

### **Legislation**

- The New Hampshire General Court passed H.B. 1383 in 2012, which requires students to sign an affidavit certifying their legal status in order to receive in-state tuition. This effectively bars undocumented students from qualifying for in-state tuition.<sup>36</sup>
- The New Hampshire House of Representatives proposed H.B. 474 in 2014, which would make qualifying undocumented students eligible for in-state tuition.<sup>37</sup>

## *New Jersey*

### **Legislation**

The New Jersey Legislature passed S.2479 in 2013, which allows certain students—including undocumented immigrants who meet certain criteria—to qualify for in-state tuition at public institutions of higher education.<sup>38</sup>

## *New Mexico*

### **Legislation**

The New Mexico Legislature passed S.B. 582 in 2005; prohibiting denial of admission or eligibility for education benefits on account of immigration status.<sup>39</sup>

## *New York*

### **Legislation**

The New York State Assembly passed S.7784 in 2002, allowing qualifying undocumented students to pay in-state tuition at institutions in the State and City University of New York systems.<sup>40</sup>

### **Other information**

The New York State Senate proposed S.B. 2378, or the New York DREAM Act of 2014, which would have allowed undocumented students who meet in-state tuition requirements to access state financial aid and scholarships for higher education. The law also would have opened 529 tuition savings accounts to all New York youth and established a DREAM Fund Commission to raise private funds for a college scholarship program for children of immigrants. The bill failed by two votes.<sup>41</sup>

## *North Carolina*

### **Legislation**

The North Carolina House of Representatives proposed H.B. 904, in 2013, would have banned undocumented students from paying in-state tuition.<sup>42</sup>

### **Other information**

In 2004, the North Carolina Community College System, or NCCCS, allowed each college to set its own policies for undocumented students. NCCCS required all colleges to admit students regardless of citizenship in 2007. In 2008, NCCCS told colleges not to accept undocumented students after North Carolina Attorney General Ray Cooper warned it might be against federal law. However, NCCCS reversed its decision that same year when the Department of Homeland Security advised that admission of undocumented students was not illegal under federal law. In 2011, the NCCCS added code 1D SB CCC 400.2 “Admission to College,” which officially states that the NCCCS colleges can admit undocumented students, but they must pay out-of-state tuition.<sup>43</sup>

### *North Dakota*

#### **Legislation**

North Dakota has not introduced legislation to provide in-state tuition or financial aid to undocumented students.

### *Ohio*

#### **Legislation**

- Current Ohio legal code prevents public colleges and universities in the state from extending in-state tuition to undocumented students.<sup>44</sup>
- In 2013, the Ohio Board of Regents decided that DACA beneficiaries could qualify for in-state tuition if they met all other eligibility requirements.<sup>45</sup>

### *Oklahoma*

#### **Legislation**

- In 2003, the Oklahoma legislature passed S.B. 596 allowing qualifying undocumented students to pay in-state tuition.<sup>46</sup>
- In 2008, the Oklahoma legislature passed H.B. 1804 that restricted access to in-state tuition and state financial aid.<sup>47</sup>

### **Other information**

Oklahoma State Regents for Higher Education states that undocumented students are eligible for in-state tuition if they attended an Oklahoma school for at least two years prior to graduation, graduated from an Oklahoma high school, and filed an affidavit.<sup>48</sup>

## *Oregon*

### **Legislation**

Passed by the Oregon State Legislature in 2013, H.2787 allows undocumented students to pay in-state tuition at all Oregon public colleges and universities.<sup>49</sup>

### **Other information**

Undocumented students can apply for merit-based scholarships at Oregon State University.

## *Pennsylvania*

### **Legislation**

- In 2011, the Pennsylvania House of Representatives proposed H.B. 1695, which would have allowed undocumented students to pay in-state tuition if: they attended school in Pennsylvania for at least three years; graduated from a Pennsylvania high school or received a GED in Pennsylvania; provided proof of an income tax filed in Pennsylvania; filed an affidavit; and registered for college no more than four years after graduation or receiving their GED.<sup>50</sup>
- S.B. 713, or the Pennsylvania DREAM Act, proposed by the Pennsylvania State Senate in 2013, would have allowed undocumented students to pay in-state tuition if: they attended school in Pennsylvania for at least two years; graduated from a Pennsylvania high school or received a GED in Pennsylvania; and filed an affidavit.<sup>51</sup>

## *Puerto Rico*

### **Legislation**

Puerto Rico has not introduced legislation to provide in-state tuition or financial aid.

## *Rhode Island*

### **Legislation**

H.B. 7437, proposed by the Rhode Island House of Representatives in 2014, would allow eligible undocumented students to pay in-state tuition.<sup>52</sup>

### **Other information**

Community College of Rhode Island, Rhode Island College, and University of Rhode Island allow undocumented students—including DACA recipients—to pay in-state tuition.

## *South Carolina*

### **Legislation**

- In 2008, the South Carolina Legislature passed H.B. 4400, banning undocumented students from attending or receiving financial aid in order to attend a public university.<sup>53</sup>
- In 2014, the South Carolina House of Representatives proposed H.B. 4735, which would allow qualifying undocumented students to pay in-state tuition.<sup>54</sup>

## *South Dakota*

### **Legislation**

South Dakota has not introduced legislation to provide in-state tuition or financial aid to undocumented students.

## *Tennessee*

### **Legislation**

In 2014, the Pennsylvania State legislature proposed S.B. 1951 and H.B. 1992 that would allow qualifying undocumented students to pay in-state tuition.<sup>55</sup>

### **Other information**

The Tennessee Board of Regents System considers undocumented students to be out-of-state students.

## *Texas*

### **Legislation**

- The Texas Legislature passed H.B. 1403 in 2001, allowing undocumented students to pay in-state tuition.<sup>56</sup>
- In 2005, the legislature passed S.B. 1528, which allowed undocumented students to qualify for state financial aid.<sup>57</sup>

### **Other information**

- Undocumented students must file the Texas Application for State Financial Aid, or TASFA, to receive state aid.
- Undocumented students may qualify for the Texas Public Educational, or TPEG, Grant and the Towards Excellence, Access and Success, or TEXAS, Grant.

## Utah

### Legislation

- In 2002, the Utah State Legislature passed H.B. 144, which allows eligible undocumented students to pay in-state tuition.<sup>58</sup>
- In 2011, the Utah House of Representatives proposed H.B. 191, which would have ended in-state tuition benefits for undocumented students.<sup>59</sup>

### Other information

University of Utah lists many scholarships as available to H.B. 144, DACA, and non-FAFSA eligible students.

## Vermont

### Legislation

Vermont has not introduced legislation to provide in-state tuition or financial aid to undocumented students.

### Other information

While Vermont has no policies on undocumented students, the state was interestingly 1 of only 11 states to file a joint amicus brief opposing Arizona's strict immigration laws in *Arizona v. United States*.

## Virginia

### Legislation

In 2014, the Virginia House of Delegates proposed H.B. 747, which would have allowed eligible undocumented students to pay in-state tuition.<sup>60</sup>

### Other information

In April, Attorney General Mark R. Herring announced that DACA recipients would be allowed to pay in-state tuition.

## Washington

### Legislation

- In 2003, the Washington State Legislature passed H.B. 1079, allowing eligible undocumented students to pay in-state tuition at all Washington state public colleges and universities<sup>61</sup>
- In 2014, the legislature passed S.B. 6523 or the Washington DREAM Act, which extends eligibility for state financial aid to DACA students.<sup>62</sup>

## *West Virginia*

### **Legislation**

West Virginia has not introduced legislation to provide in-state tuition or financial aid for undocumented students.

### **Other information**

To apply for a West Virginia Providing Real Opportunities for Maximizing Instate Student Excellence, or PROMISE, Scholarship, students must file a FAFSA, which requires a Social Security number. Undocumented students are therefore ineligible.

## *Wisconsin*

### **Legislation**

- In 2009, the Wisconsin State Legislature passed A.B. 75, which allowed undocumented students to pay in-state tuition if they graduated from a Wisconsin high school or received a GED in Wisconsin, attended a Wisconsin high school for three continuous years, and filed an affidavit.<sup>63</sup>
- In 2011, the legislature passed A.B. 40 that withdrew the in-state tuition benefits for undocumented students.<sup>64</sup>
- Proposed by the Wisconsin State Assembly in 2014, A.B. 785 would have allowed undocumented students to pay in-state tuition to qualified undocumented students at University of Wisconsin institutions and technical colleges.<sup>65</sup>

## *Wyoming*

### **Legislation**

Wyoming has not introduced legislation to provide in-state tuition or financial aid to undocumented students.

### **Other information**

Undocumented students may be eligible for the Western Undergraduate Exchange Program, which charges nonresident students 150 percent of the in-state tuition rate at the University of Wyoming.

## Endnotes

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