A1: Advising and Recruiting Undocumented Students in the Current Legal Landscape

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Session objectives

1. Understand the demographic, legal, policy, and political context related to undocumented students
2. Identify policy parameters and best practices for serving undocumented students effectively
1. CONTEXT

- Demographics
- Federal law and policy
- State law and policy
- Political landscape
- Other pressures
Language and terminology

• **Undocumented** – Lacking appropriate documentation to establish permanent residency (Green Card)
  – Technically DACA students are still undocumented
• **Unauthorized** – Lacking authorization to be present and/or living in the United States
• **DREAMers** – Youth who would benefit from enactment of the U.S. DREAM Act
• **Generation 1.5** – current conversations, especially in research
• **Illegals** – Very negative; demonizes & dehumanizes
• **DACAmendment** – undocumented students with DACA status
Who are our undocumented students?

- Students who **immigrated recently with parents** and all are undocumented
- Students who **immigrated recently without parents** (to work, flee violence in home country or to be reunited with family members)
- Students **who immigrated at a very early age with parents** and all are undocumented (DREAMERS)
The U.S. has ~11.1M undocumented immigrants

- ~15% are under the age of 18

- ~1.9M undocumented children and young adults nationwide would benefit under a federal DREAM Act.

- 8% of all children born in the U.S. are born to at least one undocumented parent
The Undocumented Population

Countries of origin

- 58% from Mexico
- 23% other countries in Latin America
- 11% from Asia
- 4% from Europe and Canada
- 3% from African countries and other nations

(Passel & Cohn, 2011)
In education:

- ~65K undocumented students graduate from American high schools every year
  - But 40% of undocumented students do not graduate. (Passel & Cohn, 2009)

- ~7K-13K undocumented students enter higher education annually –
  - But less than half of undocumented adults ages 18-24 with a high school degree have attended any college. (Passel & Cohn, 2009)
Federal v. State Basics

- Only **federal law and policy** can change undocumented students' status to receive a Social Security card, work permit, or "deferred action" on deportation, as well as students' ability to access federal financial aid.

- **State law and policy** can affect students' ability to access in-state tuition, state financial aid, and/or enrollment in state institutions.

- Undocumented students **do not currently have a pathway to seek permanent legal status** in the U.S. (though they currently may receive temporary legal status).

- Undocumented students **cannot access federal financial aid**, though they may be eligible for in-state tuition and/or state financial aid in certain states.
Federal Law: Foundations

*Plyler v. Doe (1982):*

- U.S. Supreme Court: states must provide all students with free K-12 public education, regardless of immigration status.
- Does not apply to higher education

*Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) (1996), Section 505:*

- Makes undocumented students ineligible for federal financial aid and prevents them from using the FAFSA.
Deferred Action for Childhood Arrivals (DACA)

• Eligible young people may receive "deferred action" for two years (subject to renewal).

• If a case is deferred:
  – The person does not continue to accrue unlawful presence [distinguish from unlawful status – which stays the same].
  – The person may obtain employment authorization provided s/he can demonstrate an economic need for employment.

• Anyone who meets the criteria may apply, including those currently in removal proceedings or under a departure order.
Federal Law: Executive Action

DACA Criteria:

✔ Arrival in the U.S. when 16 or younger;
✔ Continuous residence in the U.S. at least since June 15, 2007;
✔ Currently in school, graduated from HS, have obtained a GED, or are honorably discharged veterans;
✔ No conviction of a felony, significant misdemeanor, multiple misdemeanors, and do not otherwise pose a risk to national security or public safety, and
✔ Were 31 years old or younger as of June 15, 2012.
Federal Law: Executive Action

Some caveats:

- "Deferred action" does NOT confer lawful status.
- The policy involves executive action, so it is subject to change . . .
  - If Congress passes legislation,
  - If the Administration changes course, OR
  - If the next Administration wants to change the policy.
A note about the lawsuits:

• The Obama Administration attempted to implement a companion policy to DACA, Deferred Action for Parental Accountability (DAPA) for the parents of DACA beneficiaries with an opportunity to receive three-year temporary residence,

• But DAPA was blocked through court order after Texas and 25 other states sued last winter. The case is currently making its way through the appeals process.

• A similar lawsuit against DACA, however, was dismissed in the spring.
Federal Law: Executive Action

Policy and practice considerations for educators related to DACA:

• Applicants for Deferred Action will need to build an evidentiary record – in which school records play an important role.
  – Proof of current enrollment records and/or HS graduation are required submissions.
  – Attendance records may be many students' best proof of "continuous presence" in the US since 2007.
Martinez v. Regents of the University of California (2010)

- Out-of-state students at CA IHEs claimed discrimination against them because undocumented students got the in-state tuition benefit, even though they couldn't prove CA legal residency.
- Unanimous decision by CA Supreme Court
- Justice Chin: The "fatal flaw" in the plaintiff's arguments is that in-state tuition benefit is not based on CA residence . . . but on whether students attended and graduated from a CA high school.
6-7.2%  In-state tuition
3.8-4.6%  In-state tuition + state financial aid
3-3.6%  In-state tuition in some cases
1.8-2.7%  No in-state tuition
0<1.6%  No admission to state public IHEs

Immigration Reform: The Politics Now

- Immigration has long been a volatile issue (especially among Republicans) – though it has lost steam in this Congress – and already is a significant 2016 Presidential campaign issue.

- **Efforts for broad bipartisan reform stalled in 2013.** Republicans that were involved – most notably presidential candidate Marco Rubio (R-FL) – have distanced themselves since then.

- "**DREAMers**" tend to receive more sympathy than the undocumented population as a whole from both sides of the aisle.
  - But: Pro-immigration constituencies can be wary of additional protections for undocumented students because they worry it will close negotiations on a pathway to legal status for all undocumented students.
Issues for the Campaign / Next Administration

- Will DACA continue?
- Should comprehensive immigration reform move forward – or should new barriers be erected?
## The Candidates

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<th>Candidate</th>
<th>Protections for Undocumented Students</th>
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<td>Hillary Clinton</td>
<td>• Continue to offer protections for undocumented students and&lt;br&gt;• Extend them to their parents;&lt;br&gt;• Enact comprehensive immigration reform</td>
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# The Candidates

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| Jeb Bush      | • Supports a path to legal status for undocumented immigrants  
                • Would reverse DACA but supports legislative action |
| Ben Carson    | • Unclear                             |
| Chris Christie| • Unclear  
                • Signed NJ's **DREAM Act** |
| Ted Cruz      | • Opposes the federal **DREAM Act** |
| Mike Huckabee | • Unclear, but supported a measure that would have allowed AR undocumented students to access in-state tuition |
| John Kasich   | • Supports legal status for undocumented immigrants generally |
| Rand Paul     | • Introduced legislation to undo DACA |
| Marco Rubio   | • Has distanced himself from his earlier support for reform, including calling for DACA to end |
| Donald Trump  | • Would end DACA                       |
| Scott Walker  | • Unclear  
                • Repealed WI's **DREAM Act** through budget cuts |
The Candidates: Tracking Current Positions

Supports immigration reform and DACA

Supports immigration reform but maybe not DACA

Unclear position, would probably reverse DACA

Rejects immigration reform and would end DACA

???
2. STRATEGIES FOR COUNSELING PROFESSIONALS

- Key ideas for professionals on both sides of the desk
- Putting the information to use
Institutional measures for private colleges

- Little guidance for private colleges
- Many admit but minimally fund
- Most are not very transparent about their policies
  - AACRAO Member Survey in 2009 – only 50% of colleges responding indicated that they knowingly admit undocumented students; many survey respondents did not answer the question
- Stakeholder influence (alumni, trustees, donors, community members) is significant
Developing a college list

- Friendly versus unfriendly states
- Travel restrictions
- Campus climate
- Knowledgeable admission staff
- Support on campus (student activities, residence life, counseling center, career development)
Evaluating campus climate and support

Office of Admissions/Financial Aid
- Website info
- Contact person
- Listed in the College Advising Guide for Undocumented Students
- Separate financial aid form
- Do they admit but aren’t really sure how to help?

Support Services
- Student affairs
- Student groups
- Community outreach
- Legal references
- Scholarships
- DACA renewal assistance
- Health insurance
Challenges completing applications

- Request for social security number
- Citizenship question
- Paying application fee and/or fee waivers
- Dilemma regarding disclosure of undocumented status
Challenges applying for financial aid and scholarships

Biggest barrier is paying for college:

- **Which form?**
  - FAFSA – not usually recommended (even if have DACA)
  - CSS Profile or Institutional Form – YES
- **Challenges in determining financial need**
  - Lack of taxes
  - Verification issues (issue also for citizens/PR with undocumented parents)
- **Limited availability of institutional aid**
- **Lack of transparency in regard to merit scholarship eligibility**
Considerations when selecting a major

• Restrictions in choosing a major are easing due to DACA
  – Still a great deal of uncertainty
• Balancing “want” with what is possible
• Advising and career development support on campus
Role of high schools

Improve identification of students:

- Students with birth places outside of the U.S. possibly with a home language other than English
  - Smart kids with poor grades who have bad attitudes toward school. Many are bitter.*
  - High achieving students who don’t engage in the college process and ultimately never apply.*
- How to ask without asking

*YES, THESE ARE GENERALIZATIONS – TREAD LIGHTLY
Role of high schools

**Improve identification of students:**
- Outreach to ELL teachers, other students, past grads
- Create opportunities for students to self-disclose status
- Revise presentations to include the terms: *citizens, permanent residents and undocumented students*
- Include relevant information in all printed materials (college planning handbook, financial aid handouts, college counseling website)
- Educate all high school faculty and staff that undocumented students can go to college
Invite self disclosure

educationvotes.nea.org (downloadable jpeg)

e4fc.org (order posters)
Undocumented student beats odds, heads to Georgetown USA Today – Aug 27, 2015
Role of high schools

Help students navigate college costs

• Don’t assume a community college is the only option
• Talk about costs early on and have a plan B if plan A is not affordable
  – Discuss option of attending college part-time vs. full-time
  – Explain payment plans
  – Develop outside scholarship opportunities
Role of colleges/universities

• Revise application
  – Eliminate request for social security number
  – Revise citizenship options
  – Invite self-disclosure (especially for DACA students)
• Don’t require a Verification of Finances for undocumented students
• Don’t require a student to complete a FAFSA; create a financial aid form for institutional need based aid
• Award institutional scholarships
Role of colleges/universities

- Educate entire staff, especially front line admissions reps and data processors
- Assign a point person in Admissions/Financial Aid for students and counselors to contact for answers to questions
- Invite self-disclosure
- Be an advocate; Ask “Why?” and Why not?”
Other ways to support undocumented students

- United We Dream (UWD)
  - National Educators Coming Out Day
  - Ally Training
- Support Undocumented & Unafraid Campaigns
- Replicate Loyola University Chicago Magis Scholarship
- DREAMERS clubs and student groups (both on the high school and college level)
Citizen students with undocumented parents

• Students ARE eligible for federal and state aid
• If parents supply a fake or stolen social security number when completing the FAFSA, it will be rejected when the number fails to match potentially rendering the student ineligible for financial aid
• Parents without a social security number should use 000-00-0000 NOT an ITIN number
• It is important that undocumented parents file taxes as most colleges will require a copy of parents’ taxes for verification
• FAFSA “smart” form isn’t always smart!
College Advising Guide for Undocumented Students
www.iacac.org/undocumented/

- 2 year and 4 year college information
- Questions for students to ask
- Financial aid and scholarships
- Resources for parents, students, educators and college grads
- Federal and state legislation
- Career info (coming soon)
Sharing the Dream Educators Conference
www.iacac.org/undocumented/

- Being an effective ally for high school & college students
- Paying for college
- Engaging parents
- Beyond the degree – career and employment
- Myths & misconceptions
- Mental & emotional health issues
- 2 to 4 yr college transition
- Keynote by Roberto Gonzales, Harvard University
Potential Action Areas for Educators

1. **Teamwork**
   - Who comes into contact with undocumented students? Is everyone well-informed about the parameters of your policy and legal context?
   - Are attitudes from institutional leadership aligned with those of staff and faculty members?

2. **Advocacy**
   - Can your institution advocate for any needed changes at the state, federal, and/or local levels?
   - How can your experience inform the process of policy change?

3. **Student Support**
   - Is messaging/guidance for students consistent and coherent?
   - How do institutional data systems classify undocumented students? Can a special designation help protect these students without causing problems for the institution?
Final thoughts

• 3 main concerns of undocumented college students are fear of deportation, loneliness and depression. (Dozier, 1993)
• Many report frustration, helplessness, and shame, as a result of their undocumented status. (Munoz, 2008)
• Discrimination by high school & college agents often discourages students and diminishes motivation. (Munoz, 2008)
• Students who succeed in higher education often credit high school and college agents for their encouragement and guidance. (Abrego & Gonzales, 2010; Perez Huber & Malagon, 2007)