Supporting Undocumented Students in UC

PART I: FEDERAL, STATE, AND UC POLICIES IMPACTING UNDOCUMENTED STUDENTS

PRESENTER: HABIBA SIMJEE
DATE: MONDAY, JUNE 6, 2017
Agenda: Federal, State, & UC Policies Impacting Undocumented Students

**Federal**
- Immigration status
- DACA
- Proposed legislation
- Executive Orders

**State**
- AB 540 & AB 2000
- CA Dream Act
- CA Dream Loan

**University of California**
- Residency
- Support for Undocumented Students Consistent with its Nondiscrimination Policy
U.S. immigration law & policy
Deferred Action (DACA)
Proposed DREAM Act legislation*
Proposed Bridge Act*
Immigration Enforcement Priorities

CA state law
AB540
CA Dream Act (AB 130 & 131)
CA DREAM Loan Program (SB 1210)
SB 1159

UC policy
CA Residency for tuition
Financial Aid
Admissions

* Not actual law – only proposed legislation
Immigration Status

Undocumented Immigrants
- Undocumented Students

Non-Citizens
- Lawful Permanent Residents
- Non-immigrant visa holders
Deferred Action for Childhood Arrivals (DACA)

DACA provides:

- 2 year protection from deportation*
- Work permit – lawful employment authorization
- Social Security number
- Driver’s license (in CA)

* But see Executive Orders and DHS statements
Deferred Action for Childhood Arrivals (DACA)

Limitations of DACA:

- DACA does NOT grant legal status.
- DACA does NOT provide a pathway to citizenship.
- Application fee increased to $495 (from $465).
- There are many requirements to qualify.
Deferred Action for Childhood Arrivals (DACA)

**REQUIREMENTS TO QUALIFY FOR DACA**

**Age:** Under the age of 31 as of 6/15/2012;

**Entry:** Entered the U.S. before 16th birthday;

**Continuous presence:** Have resided in the U.S. since 6/15/2007, to the present;

**Physical presence:** In the U.S. on 6/15/2012, and at the time of applying;

**Undocumented:** No lawful status as of 6/15/2012

**Education:** Are currently in school, have graduated or obtained a certification of completion from a HS, GED certificate, or are an honorably discharged veteran of the US armed forces or coast guard;

**No bars:** Have not been convicted of a felony, significant misdemeanor, 3+ misdemeanors, & do not pose a threat to national security or public safety
Deferred Action for Childhood Arrivals (DACA)

DACA still exists!

Current DACA recipients may continue to apply for Renewal of their DACA.
- However, the program may end at any time – we do not know what will happen at this time.

It is highly recommended to consult with an attorney before renewing, especially if any of the following apply:
- ANY contact with law enforcement
- ANY contact with immigration authorities
- Change of address since previous DACA application
Proposed Legislation: Federal DREAM Act

Development, Relief, and Education for Alien Minors [“DREAM”] Act

Would provide a pathway to citizenship for certain young immigrants in the U.S.

Proposed legislation → NOT a law

◦ First introduced in 2001, most recently voted on in 2011, but has since failed to pass in Congress
Proposed Legislation: Federal BRIDGE Act

Bar Removal of Individuals Who Dream of Growing Our Economy [“Bridge”] Act

Would allow the same individuals who qualify for DACA to receive “provisional protected presence” and lawful work authorization for up to 3 years

Proposed legislation → NOT a law
- Introduced in Congress on January 12, 2017

**Distinction from DACA:**
BRIDGE Act would become law

**Distinction from federal DREAM Act:**
NO pathway to citizenship
2017 Executive Orders

Recent Executive Orders affecting immigrant communities:

Enhancing Public Safety in the Interior of the United States (01/25/2017)

Border Security and Immigration Enforcement Improvements (01/25/2017)

Protecting the Nation from Foreign Terrorist Entry into the United States (01/27/2017 & 03/06/2017)*

   * Currently enjoined nationwide
2017 Executive Orders

What is the potential impact of these Executive Orders and the implementing memorandums?

In the interior:
- Broad expansion of ‘priorities’ for enforcement
- Hiring of 10,000 new ICE agents
- Secure Communities
- Fast-Track removal of “Criminal Aliens”
- 287(g) Agreements
2017 Executive Orders

What is the potential impact of these Executive Orders and the implementing memorandums?

In the border region:
- 5,000 more border patrol agents
- Enhancing 287(g) in the border region
- Border Wall Construction
- Expand Expedited Removal to those not present for 2 years
- Enhance alien smuggling laws for children and prevent unification

...And expansion of detention
AB 540 & AB 2000

**AB 540**

CA state law allowing undocumented students to access in-state tuition if they:
- Attended CA high school for at least 3 years
- And graduated from a CA high school, or attained the equivalent

**AB 2000**

Amendment to AB 540 that expands AB 540 eligibility to students who may not be able to meet the requirement of 3 years at a CA high school, but:
- Earned credits from a CA high school equivalent to 3 or more years of full-time high school coursework
- And a total of 3 or more years of attendance in CA elementary schools, secondary schools, or a combination of those schools
- And graduated from a CA high school, or attained the equivalent
Attended a CA high school for 3 or more years*
  *AB2000 exception

Graduated from a CA high school, or equivalent (e.g. GED)

Registered at a CA public university

Filed AB540 Affidavit (CA Nonresident Tuition Exemption Form)

Filed affidavit that student is adjusting immigration status or will file for legal status when eligible

AB 540 student
California Dream Act – AB 130 & 131

A student who qualifies for AB 540 may also qualify for in-state and institutional financial aid through two CA state laws, AB 130 and AB 131 which comprise the CA Dream Act.
The **CA DREAM Loan** program allows undocumented students to take out loans as part of their financial aid package.

- **Eligibility requirements:**
  - Undocumented undergraduate
  - Qualify for AB 540
  - Have financial need
  - Enrolled at least half-time as a UC student

- **Maximum allotment per student:**
  - $4,000 per year
  - $20,000 total during undergraduate studies
**Financial Aid for Undocumented Students in California**

<table>
<thead>
<tr>
<th>Type of Aid</th>
<th>Non-AB 540 Non-DACA</th>
<th>AB 540 Non-DACA</th>
<th>AB 540 DACA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Aid</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>In-State Tuition</td>
<td>Maybe*</td>
<td>Yes (AB 540)</td>
<td>Yes (AB 540)</td>
</tr>
<tr>
<td></td>
<td>* See UCOP policy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Grants</td>
<td>No</td>
<td>Yes (AB 131)</td>
<td>Yes (AB 131)</td>
</tr>
<tr>
<td>State Loans</td>
<td>No</td>
<td>Yes (SB 1210)</td>
<td>Yes (SB 1210)</td>
</tr>
<tr>
<td>Private Loans</td>
<td>Depends</td>
<td>Depends</td>
<td>Depends</td>
</tr>
<tr>
<td>Institutional Grants</td>
<td>No</td>
<td>Yes (AB 131)</td>
<td>Yes (AB 131)</td>
</tr>
<tr>
<td>Institutional Work-Study</td>
<td>No</td>
<td>No** (**awarded, but cannot access)</td>
<td>Yes*** (***awarded and accessible)</td>
</tr>
<tr>
<td>Institutional Loans</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Private Scholarships</td>
<td>Yes</td>
<td>Yes (AB 130)</td>
<td>Yes (AB 130)</td>
</tr>
</tbody>
</table>
Undocumented UC students are eligible for AB 540 nonresident tuition exemption if they meet the CA AB 540/AB2000 requirements.
An undocumented student with DACA *may* be able to establish residence for tuition purposes, if the student:

- Is legally present in the U.S. → Can be satisfied by DACA
- Has accrued 366 days of continuous physical presence and intent in California
- Meets UC’s financial independence requirement where applicable:
  - Students 18-24 years old must be dependent on CA-resident parent or student must show financial independence for 2 full years
  - Financial independence will not be a factor in a residence evaluation for students 24 years old or older
UC Policy: Support for Undocumented Students

“University of California releases principles in support of UC community members”

On November 30, 2016 UCOP issued a statement: *Statement of Principles in Support of Undocumented Members of the UC Community*

UC Policy: Support for Undocumented Students

Statement of Principles in Support of Undocumented Members of the UC Community

- UC protects privacy of all students consistent with state and federal law.
- UC does not investigate, detain or arrest individuals for violation of federal immigration law.
- UC police will not contact, detain, question or arrest individuals based on suspected undocumented status or to discover immigration status and does not request immigration information from crime victims and witnesses.
- UC police will provide requested assistance with U and T visa requests as required by law.
- UC medical centers treat patients needing service without regard to race, color, religion, national origin, citizenship and other protected characteristics and enforce privacy policies and standards.
UC Policy: Support for Undocumented Students

TO IMMIGRATION OR OTHER OFFICER:

I am exercising my 5th Amendment right under the U.S. Constitution to remain silent. I do not wish to speak with you, answer your questions, or sign or give you any documents without a lawyer present. I do not give you permission to enter my home or search my person or belongings based on my 4th Amendment rights under the U.S. Constitution, unless you have a warrant to enter, signed by a judge or magistrate with my name and correct address on it that you slide under the door.

Instructions for documented international students and scholars holding in-status visas only

You are required by law to carry “registration” documents at all times. If an immigration agent requests your immigration papers you should present them if you have them with you. You have the right to contact your consulate. If you are not sure if your visa is out of status, consult with an immigration attorney.

For more information or to report an incident, please contact

UC Immigrant Legal Services Center
ucimm@law.ucdavis.edu
(530) 752-7996

United We Dream national hotline
To report incidents and abuses
(844) 363-1423

Local Campus Contact
UC Policy: Support for Undocumented Students

If you are concerned about facing immigration enforcement officers, you should prepare now. Do not wait until an encounter to think about how you will respond. Plan with the help of an immigration attorney and plan together with your family. Your plan for responding to immigration enforcement should address questions such as: whether to make statements, whether to provide documents, and whether to provide access to your residence. The information below provides a starting point for your planning.

If you can’t afford an immigration attorney, the university has resources you can access through the UC Immigrant Legal Services Center, uclimmigrant.edu, (530) 752-7996.

Your constitutional rights if you are questioned about your immigration status by immigration enforcement

- You have the right to remain silent and do not have to discuss your immigration or citizenship status. You do not have to answer questions about where you were born, whether you are a U.S. citizen, or how or when you entered the country. (Separate rules apply at international borders and airports.)
- Stay calm and be polite. Do not lie about your citizenship status or provide false documents.
- You do not have to sign anything. If you sign, you may be giving up your opportunity to stay in the U.S. As set forth in the university’s Principles in Support of Undocumented Members of the University Community, campus police will not contact, detain, question, or arrest an individual on the basis of suspected immigration status and will not undertake joint efforts with federal officers to investigate, detain, or arrest individuals on that basis.

Your constitutional rights if immigration comes to your home (including an apartment or dorm room)

- You do not have to open your door unless an officer has certain kinds of warrants. Ask the officer to show the warrant under the door or hold it up to the window so you can inspect it. A search warrant allows police to enter the address listed on the warrant, but officers can only search within the areas and for the items listed. An arrest warrant allows police to enter the home of the person listed on the warrant if they believe the person is inside. A warrant of removal/deportation (U.S. Immigration and Customs Enforcement (ICE) warrant) is not signed by a judge and does not authorize officers to enter a home without consent.
- You have the right to remain silent, even if an officer has a warrant that authorizes their entry.
- You do not have to sign anything. If you sign, you may be giving up your opportunity to stay in the U.S.

Know Your Rights!

If you are stopped by an immigration enforcement officer:

- If you choose to remain silent, tear off this portion of the card and hand it to the officer. (See other side.)
- The card explains that you are exercising your right to refuse to answer any questions until you have talked with a lawyer.

- You have the right to contact your consulate or have an officer inform the consulate of your arrest.
- You have the right to remain silent and discuss your immigration status only with your lawyer. This is an individual decision you should prepare for ahead of time with a lawyer.
- You do not have to sign anything without talking to a lawyer.
UC Immigrant Legal Services Center

What do we do?

Provide free direct immigration legal services

Who do we serve?

Undocumented and mixed-status UC students and their immediate family members

Where do we operate?

UC Davis, UC Irvine, UCLA, UC Merced, UC Riverside, UC Santa Barbara, UC Santa Cruz, UC San Diego, UCSF

Visit us:
https://law.ucdavis.edu/ucimm/resources.html

Contact us:
ucimm@law.ucdavis.edu