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THE DREAM ACT: SECURING AMERICA'S FUTURE IN EDUCATION

After living in the U.S. since the age of four, Dan-el Padilla Peralta, Princeton University's 2006 salutatorian, left to study at Oxford University, risking a 10-year bar for re-entry into the U.S. due to his status as an undocumented immigrant. Unfortunately, experiences like Dan-el's are becoming more common due to lack of congressional action reforming America's immigration laws. The Development, Relief, and Education for Alien Minors (DREAM) Act can help retain bright minds like Dan-el and strengthen America's future.

Impact of U.S. Immigration Policy on Education

In 1982, the U.S. Supreme Court ruled that states could not violate the equal protection clause of the U.S. Constitution and deny undocumented immigrant children access to a free public K-12 education (*Plyer v. Doe*). However, no such protections apply to undocumented students seeking higher education. Restrictions have, instead, been adopted to limit their access to higher education, including the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which includes a provision (Section 505) that prohibits undocumented immigrants from accessing "any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit." As a result, many states have blocked access to in-state tuition for undocumented students in their state, fearing that federal law would require them to allow a U.S. citizen residing in another state to pay in-state tuition and, in turn, impose great costs on the state.

College-bound undocumented youth face other barriers in their pursuit of higher education, including lack of access to state and federal financial aid, including loans. In addition, they are not eligible for most private scholarships, which are typically limited to citizens and legal permanent residents, and are unable to work legally and pay for higher education on their own. Because of the limited opportunities that await these students beyond high school, many fail to pursue higher education. National estimates pertaining to the enrollment of undocumented students in colleges and universities vary, but generous estimates indicate that only 14 percent of U.S.-raised undocumented students who have graduated from high school are enrolled in college.¹

Some drop out of high school with limited hope of a better future without higher education. In fact, it is not surprising that immigrants make up a significant proportion of America's dropouts – nearly 30 percent.² Among non-Hispanic undocumented immigrants aged 18 to 24 who came to the U.S. before the age of 16, 84 percent of males and 89 percent of females graduate from high school. Completion rates, however, are significantly lower among undocumented Latino students (40 percent for males, 49 percent for females).³ If passed,

¹ Batalova, Jeanne and Michael Fix, *New Estimates of Unauthorized Youth Eligible for Legal Status under the DREAM Act*. Washington, DC: Migration Policy Institute, 2006.

² Laird, Jennifer, Michael DeBell, Gregory Kienzl, and Chris Chapman, *Dropout Rates in the United States: 2005*. Washington, DC: National Center for Education Statistics, U.S. Department of Education, 2007.

³ *New Estimates of Unauthorized Youth Eligible for Legal Status under the DREAM Act*, *op. cit.*

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the DREAM Act can increase high school graduation and college enrollment rates by providing an opportunity to earn citizenship to a population of youth lacking the means to obtain legal status.

Key Features of the DREAM Act

The DREAM Act allows immigrant youth to earn legal status if they came to the U.S. before the age of 16, are of good character, and graduate from high school, providing motivation for many of these children to finish high school. Upon graduating from high school, DREAM-eligible youth would be granted conditional legal permanent status, safeguarding them from deportation and allowing them to work legally. The conditional status is made permanent if individuals pursue two years of higher education or military service within six years, providing further incentive for these youth to reach their full potential. Some versions of the DREAM Act also repeal Section 505 of IIRIRA, clarifying that states have the freedom to determine criteria for in-state tuition rates regardless of immigration status. A repeal of Section 505, however, would not mandate that states provide in-state tuition to undocumented students.

DREAM Students

Children make up approximately 16 percent of the undocumented immigrant population, numbering 1.8 million.⁴ An estimated 65,000 undocumented youth graduate from American high schools every year. Due to the eligibility criteria in the DREAM Act, 1.1 million individuals would have the opportunity to earn citizenship if the proposal was implemented. Affected students include class valedictorians, honor students, star athletes, and class presidents. Many have gained acceptance into some of the nation's most prestigious universities. Some are bilingual, while others speak only English. Others have been forced under deportation orders to return to their country of birth despite their unfamiliarity with the language and culture. Other young people, like Dan-el, have voluntarily left in search of opportunities and freedom elsewhere. All are students who, if given the chance, could become our much-needed teachers, nurses, and community and national leaders.

Status of the DREAM Act

Senators Richard Durbin (D-IL), Chuck Hagel (R-NE), Richard Lugar (R-IN) are championing the DREAM Act, S.774 and S.2205, in the U.S. Senate. Representatives Howard Berman (D-CA), Lucille Roybal-Allard (D-CA), and Lincoln Diaz-Balart (R-FL) are spearheading the companion bill, the American Dream Act, H.R. 1275, in the U.S. House of Representatives. The Senate considered the DREAM Act in October 2007, but in a procedural vote that needed 60 votes to advance, the bill stalled with a vote of 52-44. Nonetheless, the majority of the Senate supported the advancement of the DREAM Act, and because American high schools and institutions of higher education will continue to grapple with this unique cohort of graduating students every year, the issue will very likely to return for consideration.

Federal Inaction Leads to State Action

In spite of inaction at the federal, and likely due to it, 10 states have taken steps to remove barriers that immigrants residing in their state face in pursuing higher education. In 2001,

⁴ Passel, Jeffrey S., *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey*. Washington, DC: Pew Hispanic Center, 2006.

Texas was the first state to pass a law that would allow individuals, regardless of immigration status, to qualify for in-state tuition if they have graduated from a Texas high school and have lived in the state for three years. Since then, California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma, Utah, and Washington have followed Texas's lead. In addition, approximately 20 other states, including Connecticut, Florida, Massachusetts, and Minnesota, have debated similar legislation. It is clear from the representation of states that this is not a regional issue but a growing national issue requiring federal action.