



**POLICY
MATTERS**

Should Undocumented Immigrants Have Access to In-State Tuition?

Context

Immigration issues have become controversial in recent years due to the influx of immigrants into the United States and fear over security and safety post-9/11. From driver's licenses to welfare—these issues have caused emotional debate as both sides wrangle over the rights and needs of immigrants. Since 2001, state legislatures have been battling another contentious issue - whether to provide undocumented students who have lived in this country for many years a chance at an affordable college education. It's a subject that heats up each legislative session in as many as twenty states across the country. Fights have been so ugly that legislators have received threatening messages, been lambasted on the radio and removed their sponsorship of the bills.

In the last five years, nine states passed legislation allowing undocumented immigrants to receive in-state tuition. [see Figure 1] Each law has similar requirements of the students:

- Residence in the state for a certain number of years,
- Graduation from a state high school,

- Acceptance to a college or university, and
- Submission of an affidavit stating they will file for legal residency.

These laws were generally passed in states with a high immigration population with the intent of helping students who were brought over at a very young age and/or have lived most of their lives in the U.S. Many times, when the students apply to a college or university, they are either denied admission or charged out-of-state tuition rates that they and their families cannot afford. In most cases, they are ineligible for financial aid. Supporters say they hope this type of legislation is ultimately an economic development initiative to lower the dropout rate among Hispanic youth and encourage postsecondary education. Opponents say these policies just entice more illegal immigrants to flood into the country and take away opportunities from U.S. citizens.

Observations

Federal law guarantees all students, regardless of legal status, an education from kindergarten through high school. Few feasible options

to any student who qualifies under its parameters. The case was heard in early May—it is unclear when a decision will be reached and the ultimate impact on the other eight states with similar legislation. In Utah, the joint Education Interim Committee voted earlier this month to repeal a similar law after its legality was called into question by the lead attorney for the Kansas case. With the committee's approval, the bill will move directly to the House and Senate floor in the 2006 legislative session. University of Utah students are also considering a lawsuit to recoup the difference in past payments of out-of-state tuition. On the federal level, the bi-partisan Development, Relief, and Education for Alien Minors (DREAM) Act and the Student Adjustment Act, which would amend the 1996 federal law, is pending.

Immigrant populations are growing rapidly and can contribute to the economic development of a state.

In 2001, California and Texas were the first to debate this legislation due to the rising number of immigrants living in their states. Research showed that not helping students attend college resulted in much greater costs to their state via prisons, the welfare system, and contributed to an uneducated workforce. The Texas House Research Organization estimated that in 1998, the number of students who dropped out of high school increased to almost 1.2 million and the result would cost the state roughly \$319 billion due to “increased spending on social programs, higher rates of crime and decreased opportunities for a higher quality of life.”

The Urban Institute estimates that approximately 65,000 students around the country would be eligible for this tuition benefit. The actual number of students who would take advantage is very small. Even in states where this legislation is enacted, the number of undocumented students enrolling in college under this benefit is much smaller than expected. Students fear deportation

or other legal consequences for themselves and their families if they reveal their residency status and apply for visas or permanent citizenship. For others, it is a lack of knowledge regarding the benefits. This information sometimes fails to trickle down to students from guidance counselors and teachers. If a student overcomes these barriers, they may face still another—finances. Undocumented immigrants are ineligible for any type of federal aid, grants or other government assistance to fund their education. In New Mexico, Oklahoma, and Texas are the only states that give these students eligibility for state assistance. In New Mexico, students are able to take advantage of the lottery scholarship. In Oklahoma and Texas, once they are given in-state status, they qualify for state aid.

Even if students receive this tuition benefit, they may not be able to work in the state upon graduation.

After four years of having a law on the books, Texas is beginning to see the outcome of passing its legislation. *The Wall Street Journal* recently reported that several hundred undocumented immigrants graduated from Texas institutions this month and found themselves unemployable without work visas or legal status. Obtaining the needed status to work in the U.S. legally can take years.

Conclusion

As record numbers of immigrants enter and settle across the United States, this issue is one likely not to lose momentum—or emotion—for activists or policymakers. It is important to give all students access to an affordable postsecondary education, to not only enrich and improve their own lives but to contribute back to the economy and welfare of their communities. This decision must be made based on the unique needs of each state and its citizens.

Resources

American Association of State Colleges and Universities

(AASCU). AASCU published *Access for All? Debating In-State Tuition for Undocumented Alien Students*, a resource for state college and university presidents and chancellors on the national trends regarding this issue.

aascu.org/policy/special_report/access_for_all.htm

Americans for Legal Immigration (ALIPAC).

ALIPAC was formed with the mission to address the disparity between the public's desire for more control of illegal immigration and the actions of lawmakers. The organization provides immigration information to the public and policymakers on topics such as driver's licenses and postsecondary access.

alipac.us/

Center for Policy Alternatives (CFPA).

CFPA began promoting in-state tuition for undocumented immigrants in 2001 and provides model legislation for state policymakers. cfpa.org/

Federation for American Immigration Reform (FAIR).

FAIR is an organization that believes America's immigration policies should be reformed to serve the national interest.

The organization is a party in the Kansas lawsuit. fairus.org/

Jobs for the Future, *Access to Community College*

for Undocumented Immigrants: A Guide for State

Policymakers. This policy brief, prepared for Achieving the Dream, a national initiative to increase the success of underserved groups in community colleges, explores and highlights some of the actions being taken by states and institutions to improve the access of undocumented immigrants to education opportunities.

jff.org/jff/PDFDocuments/AccessToCCUndoc.pdf

National Immigration Law Center (NILC).

NILC is a national support center whose mission is to protect and promote the rights and opportunities of low-income immigrants and their family members. The center has compiled "Basic Facts about In-State Tuition for Undocumented Immigrant Students," on their website at nilc.org.

The National Conference of State Legislatures' Immigrant

Policy Project (NCSL). NCSL tracks both state and federal legislation surrounding undocumented immigrants and postsecondary education. ncsl.org/programs/immig