



# Undocumented Students and Higher Education: History, Challenges and Advocacy

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# Undocumented Immigrants

- ◆ Undocumented immigrants are individuals who either entered the U.S. legally but remained past the expiration date of their temporary non-immigrant status or entered the U.S. by avoiding inspection through designated points of entry
  - ◆ Not all undocumented immigrants are illegal
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# Undocumented Immigrants

- ◆ Estimated 12 million undocumented immigrants
- ◆ This number could be slightly lower because of economic crisis
- ◆ An estimated 250,000 to 500,000 of these immigrants enter every year
- ◆ 4 to 5.5 million entered with a visa but overstayed
- ◆ 6 to 7 million have crossed the border illegally
- ◆ 66% of the unauthorized population has been in the country for ten years or less.
- ◆ The largest share, 40% of the total, has been in the country five years or less.

*Source: Pew Hispanic Center 2006*

# Foreign Born Population

Foreign born population 37.5 million

- ◆ 35% Legal permanent residents
- ◆ 31% Naturalized Citizens
- ◆ **30% Undocumented**
- ◆ 4% Other

# Where are they from?

- ◆ Latin America 80%
  - Mexico (57%)
  - Central and South America (23%)
  
- ◆ Asia 10%
  - Philippines
  - Vietnam
  
- ◆ Europe and Canada 5%
  - Ireland
  - Poland
  - Hungary
  
- ◆ Rest of the World 5%
  - Nigeria
  - Jamaica
  - Russia

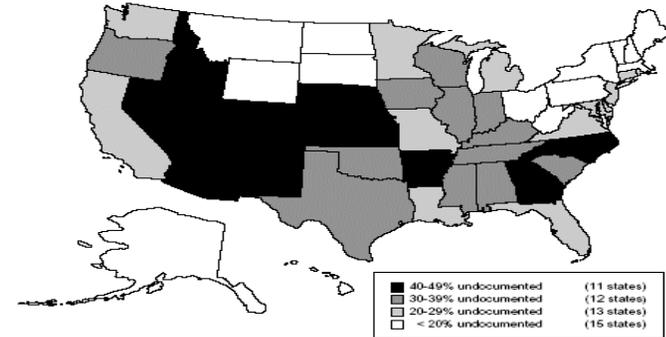
*Source: Urban Institute, National Immigration Law Center-2004*

# Where do they live?

- ◆ **Distribution by state:** Almost two-thirds of the undocumented population lives in just six states: California (26 percent), Texas (12 percent), Florida (10 percent), New York (8 percent), Illinois (5 percent), and New Jersey (4 percent). But, the most rapid growth in the undocumented population since the mid-1990s has been outside these states.

*Source: Urban Institute, National Immigration Law Center-2004*

FIGURE 2. SHARE UNDOCUMENTED OF FOREIGN-BORN POPULATION, BY STATE, 2000



SOURCE: Urban Institute estimates based on Census 2000.

- ◆ High-growth regions are the Rocky Mountains, the Midwest, and the Southeast. The undocumented populations of Arizona, Georgia, and North Carolina have grown so rapidly that they may already have surpassed New Jersey's undocumented population

# Undocumented students by the numbers

- ◆ There were approximately 1.8 million undocumented minors in the U.S. in 2005
- ◆ An estimated 500,000 undocumented students are enrolled in high schools in the U.S.
- ◆ 65,000 of these students graduate each year
- ◆ Only about 10% continue to higher education
- ◆ Only about 18,000 undocumented students enrolled in post-secondary institutions in the United States.

Source: Pew Hispanic Center and Urban Institute



# Who are these undocumented college students?

## The Majority:

- ◆ were brought to U.S. by family
  - ◆ have lived in the U.S. more than five years
  - ◆ are mostly assimilated to American culture
  - ◆ require English instruction at some point in their American education
  - ◆ start in grammar/elementary schools in U.S.
  - ◆ are females
  - ◆ work while attending college
  - ◆ are low on the socioeconomic scale
  - ◆ Start or are enrolled in community colleges
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# What attracts undocumented students to the community college?

- ◆ Flexible open door admissions policies
- ◆ English as a second language
- ◆ Accessible locations
- ◆ Institutional scholarships
- ◆ Practical Majors
- ◆ Academic support
- ◆ Diversity
- ◆ Affordable cost of tuition
- ◆ Institutional reputation
- ◆ Will help with their future/ becoming a part of society
- ◆ Knowledge: No one can take it away

# Perceptions of the college experience

- ◆ Promotes self-determination
  - ◆ Cultivates maturation
  - ◆ Advances positive change
  - ◆ Establishes a sense of academic equity
  - ◆ Promotes a sense of security
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- A stylized, layered mountain range graphic in shades of teal and blue, positioned in the bottom right corner of the slide.

# Obstacles for enrolled undocumented students

- ◆ Financing education/cost
- ◆ Limited English Proficiency
- ◆ Enrollment/transfer to private colleges and universities
- ◆ Commuting
- ◆ Restrictions
  - Extra-curricular activities-Internships-Intercollegiate sports
- ◆ Exclusion from certain majors
- ◆ Professional employment
- ◆ Licensing for certain professions
- ◆ Fear of the future
- ◆ Time constraints
- ◆ Lack of information
- ◆ In-State Tuition

# Overview in-state tuition for undocumented students

- ◆ 1882 Priest v. Regents of the University of Wisconsin
  - ◆ 1982 Plyler v. Doe
  - ◆ Prior to 1985-Interpretation based on domicile rules by states and counties
  - ◆ 1985 Leticia v. University of California Board of Regents (Alameda Superior Court)
  - ◆ 1992 Bradford v. University of California Board of Regents (Employee Action)
  - ◆ 1994 California Proposition 187
  - ◆ 1996 Illegal Immigration Reform and Immigration Responsibility Act
  - ◆ 2001 Some states begin developing in-state tuition policies
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# States that provide/provided in-state tuition

- ◆ California
- ◆ Illinois
- ◆ Kansas
- ◆ Nebraska
- ◆ New Mexico
- ◆ New York
- ◆ Oklahoma\*
- ◆ Texas
- ◆ Utah
- ◆ Washington

10 States that offer in-state tuition based upon graduation from high school and some years of physical residency

All 10 states have been sued because of their in-state tuition policies for undocumented students

\*Rescinded its in-state tuition policy for undocumented students in 2009

# Overview of in-state tuition

- ◆ 2004 Day v. Sibelius, upheld 2007-10th Circuit
- ◆ 2006 *Martinez vs. Regents of the University of California-AB540* (Superior Court)
- ◆ 2007 Arizona Proposition 300 (Georgia and Colorado similar policies)
- ◆ 2008 California court of Appeals, 3<sup>rd</sup> Appellate District (Overturns Superior Court-benefit based on residence)
- ◆ 2008 Oklahoma rescinds its in-state tuition policy
- ◆ 2009 California Supreme Court hears case challenging in-state tuition

# In-state tuition policy for undocumented: New York case study

- ◆ There is no law or regulatory language that prevents undocumented individuals from attending college in New York.
- ◆ Regardless of your immigration status, you qualify for in-state tuition if you:
  - a) were enrolled in CUNY or SUNY community college for the Fall 2001 semester, and qualified for in-state tuition at that time;
  - b) attended a New York State high school for two or more years, graduated, and applied to attend a CUNY or SUNY community college within five years of receiving a New York State diploma; or
  - c) attended an approved New York State program for the GED exam preparation, received a Graduate Equivalency Diploma (GED) from New York State, and applied to attend a CUNY or SUNY within five years of receiving your New York State GED.
  - To get in-state tuition, undocumented immigrants must file an affidavit stating that they have applied to legalize their status, OR that they will apply to do so as soon as they are eligible. Your college can provide you with a sample affidavit.

# Domicile requirements for in-state tuition: New Jersey case study

- ◆ There is no law or regulatory language that prevents undocumented individuals from attending college in New Jersey
- ◆ The New Jersey Administrative Code, Volume 9A:5, establishes criteria for in-state residency for tuition purposes, based upon the concept of “domicile”.
- ◆ Domicile may be demonstrated by a variety of documents, including NJ tax returns, driver’s license, property leases, and affidavits
- ◆ Immigration status is not listed as a criteria for residency for tuition purposes; however, “Residency established solely for the purpose of attending a particular educational institution does not constitute domicile for tuition purposes”. Therefore, an F-1 student who resides in New Jersey cannot be considered an in-state resident.

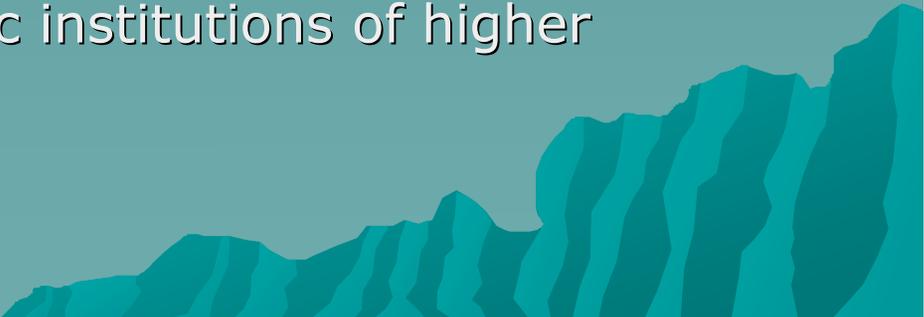
# Restriction of in-state tuition for undocumented students: Arizona case study

- ◆ Proposition 300 provides that college students who are not U.S. citizens or permanent residents, or who do not have lawful immigration status, are not eligible for in-state tuition status or financial aid that is funded or subsidized by state monies.
- ◆ There is no law or regulatory language that prevents undocumented individuals from attending college in Arizona.

# Overview of access for undocumented students

- ◆ 2002, Virginia Attorney General informs higher education administrators that undocumented students could not be enrolled in public colleges and universities, not be eligible for in-state tuition, and should be reported by college officials to the Immigration Service
- ◆ 2003, *Doe v. Merten* A lawsuit was filed against seven Virginia colleges by a number of immigrant rights groups on behalf of the students who had been denied admissions based on their lack of status.
- ◆ 2004, United States District Court ruled public colleges have the right to deny admissions based on status
- ◆ June 2008, South Carolina bans undocumented students from attending public colleges

# Overview of access for undocumented students

- ◆ July 2008, Department of Homeland Security concluded that federal law does not prevent public colleges from accepting undocumented students
  - ◆ August 2008, North Carolina's State Board of Community Colleges bars admission to these institutions for undocumented students
  - ◆ September 2008, Alabama State Board of Education bars undocumented students from community colleges
  - ◆ August 2010, Georgia considers banning undocumented students from attending public institutions of higher education
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# Dream Act

- ◆ Development, Relief and Education for Aliens Minors Act (Dream Act).
- ◆ undocumented students must:
- ◆ (a) have entered the U.S. more than 5 years ago
- ◆ (b) have entered the country at age 15 or younger
- ◆ (c) be able to demonstrate good moral character; and
- ◆ (d) Must have graduated from a United States high school, or have obtained a GED, or have been accepted into an institution of higher education (i.e. college/university)
- ◆ (e) Must be between the ages of **12 and 35** at **the time of application**

National Law Center, 2007

# Dream Act

- ◆ If the DREAM Act passes, an undocumented individual meeting those qualifying conditions stated prior, would have to do the following:
  - Apply for the DREAM Act (Since the legislation has not yet passed, there are no specific guidelines on how to apply)
  - Once approved and granted **Conditional Permanent Residency**, the individual would have to do one of the following:
    - Enroll in an institution of higher education in order to pursue an associate's or bachelor's degree or higher degree **or**
    - Enlist in one of the branches of the United States Military
  - Within 6 years of approval for conditional permanent residency, the individual must have completed at **least** two (2) years of one of the options outlined in the previous step
  - Once 5 ½ years of the 6 years have passed, the individual will then be able to apply for Legal Permanent Residency (dropping the conditional part) and consequently will be able to apply for United States Citizenship
  - Those who have already completed at least 2 years of college education towards an associate's or bachelor's degree or higher degree, will still have to wait the 5 ½ years in order to apply for Legal Permanent Residency even though you may have already obtained a degree.
  - Students who do not complete the requirements will be **disqualified** .

# At-Risk Factors

- ◆ English proficiency
  - ◆ Remediation
  - ◆ Low socioeconomic status
  - ◆ Ethnic minority status
  - ◆ Lack of family support and pressure
  - ◆ Lack of institutional support
  - ◆ Investment without return
  - ◆ Mobility
  - ◆ Psychological issues
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# Negative Psychological Issues

- ◆ Isolation
- ◆ Stress
- ◆ Fear
- ◆ Anger
- ◆ Depression
- ◆ Discrimination
- ◆ Mental exhaustion
- ◆ Homesickness
- ◆ Assimilation
- ◆ Adaptation
- ◆ Cultural issues
- ◆ Priority issues

Barato, 2009



# Positive Psychological Issues

- ◆ High self efficacy
- ◆ High self concept
- ◆ High self esteem
- ◆ Low effort avoidance
- ◆ High self motivation
- ◆ High resilience

Source: Richard D. Cortés, presentation at ASHE 2006 conference

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# Academic Issues

- ◆ Educational resilience
  - ◆ Academically successful
  - ◆ Become proficient in English
  - ◆ Win prestigious awards/scholarships
  - ◆ Take semesters off
  - ◆ Don't finish
  - ◆ Troubles with transfer
  - ◆ Troubles with first semester
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# What we can do?

- ◆ Counselors can provide undocumented students with social support and stress reduction interventions.
- ◆ Train counselors on basic immigration law guidance.
- ◆ Educator-training institutions can educate future administrators, professors and counselors about the challenges and stressors that are commonly experienced by these individuals.
- ◆ Establish multicultural support programs at the college level.

Source: Richard D. Cortés, presentation at ASHE 2006 conference

# What we can do?

- ◆ Colleges and Universities should engage in more fundraising to increase scholarships and book grant opportunities for undocumented students.
- ◆ Update online application to help facilitate student enrollment process (i.e., allow to submit application without SS#)
- ◆ Send college outreach representatives to low-income high schools to promote dual enrollment programs. Undocumented students can benefit from this tuition-free program.

Source: Richard D. Cortés, presentation at ASHE 2006 conference

# What we can do?

- ◆ Colleges and universities should begin to collect data on undocumented student performance and degree attainment
- ◆ Examine counselor, professor, and staff attitudes and knowledge of undocumented students.
- ◆ Explore factors that promote positive psychosocial characteristics of the highly talented undocumented student

Source: Richard D. Cortés, presentation at ASHE 2006 conference



# Resources

- ◆ Student Groups
  - ◆ International Student Offices
  - ◆ Case Studies for Financial Aid
    - New Mexico
    - Texas
  - ◆ Scholarships for undocumented students
    - College Foundations
    - Community organizations
    - Private Organizations
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# Advocacy

- ◆ Dream Act
  - ◆ Immigration reform
  - ◆ State legislation
  - ◆ Federal Government
  - ◆ Partnerships with high schools
  - ◆ Research
  - ◆ Professional organizations
  - ◆ Community College Consortium for Immigrant Education
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# Future Issues

- ◆ Closing access to undocumented students
- ◆ Challenges to in-state tuition
- ◆ Immigration reform
- ◆ How would immigration reform affect community colleges, colleges and universities?
  - ESL
  - Degree attainment
  - Reform process
  - Significant increase in enrollment

# Dream Act issues

- ◆ Dream Act enactment problems
  - No financial aid changes
  - Financial issues
  - Lack of GED/High School Diploma
  - Many not college ready
  - Childcare issues
  - Transportation issues
  - University English proficiency
  - Passages of Military Entrance Exam
  - Six years not enough time to complete two years worth of higher education

Q&A



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