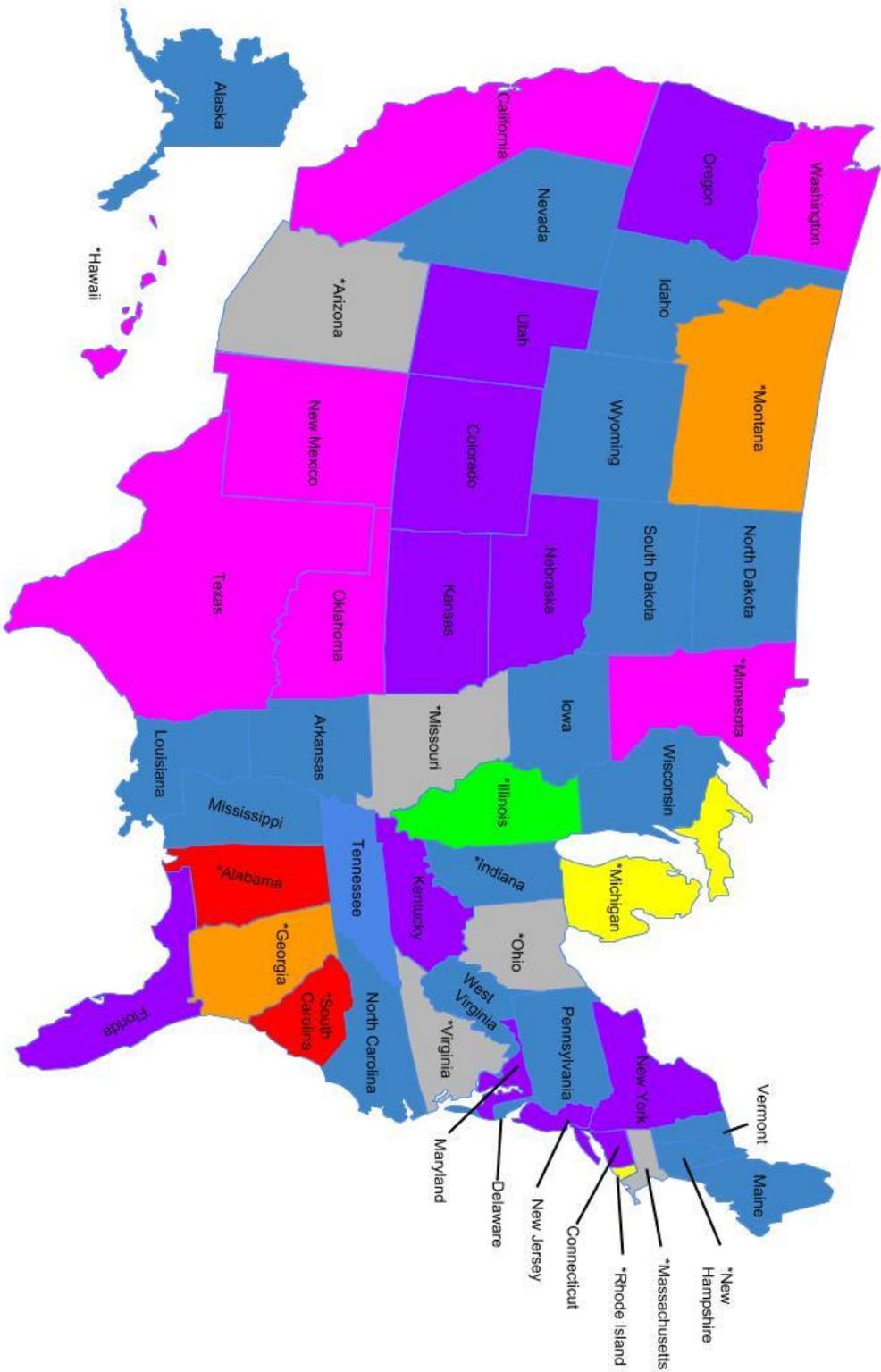




DEEP
HIGH EDUCATION LEADERSHIP PROGRAM

Tuition and State Aid for Undocumented Students and DACA Grantees | Access by State *Notes|June 2015



	States with tuition equity law or policy
	States with tuition equity laws and scholarships
	States where DACA grantees may be eligible to pay in-state tuition colleges/universities

	States with tuition equity policies at major institutions
	States that have enrollment of undocumented students but may not enroll DACA recipients
	States where some college systems have undocumented students enrollment

States that do not have any known tuition equity law or policies. Undocumented or DACA grantees in these states may be able to enroll in colleges/universities; however, they may have to pay out of state or an international student tuition rate/fee. Information is currently being collected about whether DACA grantees are eligible for in-state tuition.

* Please refer to notes page for additional details.

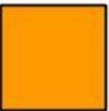
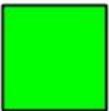
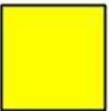
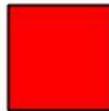
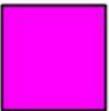
Questions or suggested changes? Contact Dream Education Empowerment Program (DEEP) Coordinator, Laura at laura@unitedwe dream.org



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Questions or suggested changes? Contact DREAM Education Empowerment Program Coordinator,
Laura
laura@unitedwedream.org

	Montana (MT) - Bans the enrollment of undocumented students, however the public university system has declared that it is not bound by the initiative of banning enrollment and intends to admit eligible students regardless of their status
	Georgia (GA) - Bans undocumented students from the top five public universities (Georgia State University, Georgia Institute of Technology, Georgia College of Medicine, University of Georgia, Georgia College & State University)
	Illinois (IL) -Provides in-state tuition and funding (IL Dream Fund- Private state scholarship fund)
	Arizona (AZ) - Arizona State University, Northern Arizona University, The University of Arizona, Pima Community College System and Maricopa Community College System enroll DACA recipients at in-state tuition rates Ohio (OH) -Board or Regents decision provides in-state to DACA recipients at state colleges and universities Missouri (MO) -University of Missouri Kansas City began enrolling DACA recipients at in-state rates fall 2013. Also, community colleges in the Kansas City metro and St. Louis area are enrolling DACA recipients Massachusetts (MA) -Undocumented immigrants who qualify for DACA should receive tuition breaks at the 29 public colleges and universities in Massachusetts New Hampshire (NH) - University of New Hampshire enrolls DACA recipients at in-state tuition rates Virginia (VA) -Virginia Attorney General concluded on 4/29/14 that no provision of state or federal law precludes individuals approved under DACA from forming subjective domiciliary intent to remain in Virginia; they are capable of establishing domicile and qualifying for in-state tuition in accordance with Virginia code §23-7.4
	Michigan (MI) - University of Michigan's (UM) Board of Regents decision provides in-state tuition to undocumented students at UM and their flagship Ann Arbor campus and satellites in Flint and Dearborn. Eastern Michigan University, Wayne State, and Saginaw Valley State University are also providing in-state tuition to undocumented students. Western Michigan University is the only institution in Michigan that extends in-state tuition and financial assistance, via private funds for DACA recipients.
	Rhode Island (RI) - Board of Governors decision provides in-state tuition at State colleges and universities
	Alabama (AL) -Bans the enrollment of undocumented students, however, enrolls DACA recipients at in-state tuition rates at community colleges and the following universities: University of Alabama in Huntsville, University of AL in Birmingham, University of AL in Tuscaloosa, University of Montevallo, University of Troy in Dothan, University of Troy in Troy, Auburn University at Montgomery and Auburn University at Auburn South Carolina (SC) - Bans the enrollment of undocumented students, however, enrolls DACA recipients. In-state tuition rates have yet to be resolved Indiana (IN) - In 2011, the state passed HB 1402 that requires that students be lawfully present to receive in-state tuition benefits at state colleges and Universities. In 2013, SB 207 passed which ensures that those students who had already been enrolled before implementation of HB 1402 would still have access to in-state tuition. Thus, SB 207 states that students enrolled in State postsecondary educational institutions as of July 1, 2011 are eligible to pay in-state tuition rates without needing to verify status. Due to both of these laws Indiana denies in-state tuition to a <i>majority</i> of undocumented students, particularly new students.
	Hawaii (HI) -University of Hawaii's Board of Regents decision provides in-state tuition and financial assistance to eligible students regardless of status

NOTE: The above listings are some but not all of the states/institutions that make in-state tuition rates available to students with DACA. Information is still being gathered; if you have any questions, changes or additions to make please contact DEEP Coordinator (information above).

Legislative Timeline Activity

Part One-Overview of Landscape

NOTE: Facilitators make sure that you have printed out the sheets before the activity (2 copies of each) cut each piece of paper in half to separate the title from the description. Make sure that the timeline w/definitions is included in your participants packet. Do not mention that they have this until after the first two rounds of the activity.

1. Explain to the participants that this will be a competition and that the larger group will be divided into smaller groups (Groups should be no larger than 5-6 people).
2. Have folks get in a circle and count off people by five or six to make small groups.
3. Instruct folks to get into their teams in four different room locations.
4. Ask your facilitators to make sure that all groups have the titles and definitions (14 pieces of legislation/programs total).
5. **First Round:** Have your facilitators tell the teams that they will have 5 min. to match the policy/program definitions to the correct policy/program titles. Let them know that if they finish before the time is up they have to start clapping.
 - a. Once the time is up have facilitators look at their teams definitions to make sure they are matched correctly. Whoever has the most correct or whoever finished first and has the most correct is the winner of the first round.
 - b. After figuring out who the winning team is make sure that your facilitators help their teams match the policy/program definitions correctly.
6. **Second Round:** Have your facilitators tell the teams that the challenge now is to put them in chronological order. Give them 5 minutes and if they finish before the time is up they have to start clapping.
 - a. Once the time is up have facilitators look at the order of each group to make sure they are correct. Whoever has the most correct or whoever finished first and has the most correct is the winner of this round.
7. **Closing:** Get folks to circle up again and share what legislation(s)/programs stood out, ask if they have any questions about any of them and hand them the timeline that has the definitions.
 - a. To close the activity make sure that you state the importance of understanding the rights, policies and or programs that influence undocumented students' education as an educator and as an ally.
 - b. Choose three policies/programs that you want to go over as part of a larger group conversation.

- c. Emphasize the responsibility that they have as educators to share the information and resources with colleagues, current and future students.
- d. Thank participants for engaging in the activity and instruct them to go back to their seats.
- e. Make it clear that they have resources on DACA, Plyler V Doe, and the Department of Education's Dear Colleague Letters inside their participant's folders.

Federal Legislation & Programs that Influence Undocumented Students



1882: Chinese Exclusion Act - The Chinese Exclusion Act was a federal law that became the first major law restricting immigration to the U.S. The act was created in response to racially and economically-driven fears that native-born Americans would experience increased unemployment and declining wages because of Chinese workers, who were viewed as racially inferior. Chinese were drawn to the west coast after the gold rush to work on the expansion of the transcontinental railroad. The law ultimately halted Chinese immigration for ten years and prohibited Chinese from becoming U.S. citizens. Through the Geary Act of 1892, the law was extended for another ten years before becoming permanent in 1902.¹ It was not until the Immigration Act of 1965, which eliminated

¹ Harvard University Library: Chinese Exclusion Act (1882) <http://ocp.hul.harvard.edu/immigration/exclusion.html>

previous national-origins policies that large-scale Chinese immigration to the United States was allowed to begin again after a hiatus of over 80 years.

1924: The Johnson-Reed Immigration Act – This federal legislation included a Japanese Exclusion provision that barred all immigrants from Asia in order to target the Japanese. There were implemented limits on the amount of individuals that could be admitted to the U.S. from any country of origin. The quota limited immigration visas to only 2 percent of the total number of people of each nationality residing in the U.S. as of the 1890 national census.²This is how the U.S. first started limiting how many immigrants it would allow from each country of origin.

1954: Brown v. Board of Education – Brown v. Board of Education was the name given to the five cases consolidated and heard by the U.S. Supreme Court concerning the issue of segregation in public schools. While the facts of each case are different, the main issue raised was that separate school systems for blacks and whites were inherently unequal, and thus violated the equal protection clause of the fourteenth amendment to the U.S. Constitution. The Court ruled that in the field of public education the doctrine of separate but equal had no place. Separate educational facilities were deemed unconstitutional and inherently unequal.³ The decision overturned Plessy v. Ferguson which in 1896, allowed state-sponsored segregation.

1965: Immigration and Nationality Act (the Hart-Cellar Act)- This federal legislation abolished the national origins quota system that was implemented in the Johnson-Reed Immigration Act, replacing it with a preference system that focused on immigrants' skills and family relationships with U.S. citizens or U.S. legal residents.⁴ The U.S. numerical restrictions on visas were set at 170,000 per year.

1965: Higher Education Act (HEA) – The HEA authorizes the provision of federal student aid and must be renewed approximately every 5 years by Congress. During reauthorization, Congress is able to make various changes, such as adding new programs, streamlining existing programs, and increasing authorized funding levels.⁵ Under the HEA, undocumented students do not qualify for federal financial aid, including Pell Grants, the federal work-study program, and federal loans.⁶

² The U.S. Department of State, Office of the Historian. The Immigration Act of 1924 (The Johnson-Reed Act) <https://history.state.gov/milestones/1921-1936/immigration-act>

³ United States Courts- History of Brown v. Board of Education <http://www.uscourts.gov/educational-resources/get-involved/federal-court-activities/brown-board-education-re-enactment/history.aspx>

⁴ University of Washington Bothell and Cascadian College http://library.uwb.edu/guides/usimmigration/1965_immigration_and_nationality_act.html

⁵ Reauthorization of the Higher Education Act of 1965: <http://www.finaid.org/educators/reauthorization.phtml>

⁶ Center for American Progress: States Must Expand Higher-Education Opportunities for Undocumented Students <https://www.americanprogress.org/issues/higher-education/news/2015/03/13/108672/states-must-expand-higher-education-opportunities-for-undocumented-students/>

1965: Free Application for Federal Student Aid (FAFSA) – The FAFSA form was created under the Title IV of the Higher Education Act of 1965 to help manage student financial assistance programs. The programs provided grants, loans, and work-study funds to U.S. Citizen, U.S. Resident, or eligible students with visas attending college or career schools.⁷ Undocumented immigrant students are not eligible for federal student aid; however, if the student has been granted DACA they can fill out the FAFSA application to get their Student Aid Report (SAR). The SAR is sometimes used by community/private scholarships or institutions to grant financial aid to students that are not connected to federal or state funding.

1974: Family Education Rights and Privacy Act (FERPA) – FERPA is a federal law that protects the privacy of student’s education records, identifying data, health data, family background information, and information on student behavior. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. FERPA gives parents certain rights with respect to their children’s education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level.⁸ Under FERPA undocumented immigrant students’ immigration status falls under identifying information. If the student’s family is also undocumented, the student’s family background information is also protected.

1982: Plyler v. Doe – Under Plyler v. Doe the U.S. Supreme Court ruled that a State may not deny access to a basic public education to any child residing in the State, whether present in the U.S. legally or otherwise. Plyer makes clear, that the undocumented or non-citizen status of a student (or his or her parent or guardian) is irrelevant to that student’s entitlement to an elementary and secondary public education. K-12 institutions of education cannot discriminate on the basis of immigration status or request information with the purpose or result in denying access to public school on the basis of race, color or national origin. A school district may not bar a student enrolling in its school based on a foreign birth certificate. Similarly, a district may not deny enrollment to a student if he or she (or his or her parent or guardian) chooses not to provide a social security number.⁹

1986: Immigration Reform and Control Act (IRCA)¹⁰ – Enacted November 6, 1986, IRCA is an Act of Congress that reformed U. S. immigration law. IRCA required employers to attest to their employees’ immigration status. It made it illegal to knowingly hire or

⁷ Federal Student Aid: An office of the U.S. Department of Education- Who we are <https://studentaid.ed.gov/about>

⁸ U.S. Department of Education: Laws and Guidance-Legislative History of Major FERPA Provisions <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/leg-history.html>

⁹ U.S. Department of Education: Office for Civil Rights- Joint “Dear Colleague” Letter

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201101.html>

¹⁰ Department of Homeland Security: U.S. Citizenship and Immigration Services-Public Law <http://www.uscis.gov/tools/glossary/immigration-reform-and-control-act-1986-irca>

recruit undocumented immigrants. It legalized certain seasonal agricultural workers who were undocumented and legalized undocumented immigrants who entered the U.S. before 1982, had resided there continuously with the penalty of a fine, back taxes due, and admission of guilt. Approximately 3 million undocumented immigrants were granted legal status as a result of this law.

1996: Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) - Section 505 of IIRIRA mandates that “unauthorized immigrants shall not be eligible on the basis of residence within a state for any post-secondary education benefit unless a citizen or national of the U.S. is eligible for such benefit without regard to whether the citizen or national is such a resident provided on or after July 1, 1998”¹¹(i.e. unauthorized immigrants shall not be eligible for any post-secondary education benefit within a state on the basis of residence unless a U.S. citizen or national is eligible for such benefit). While Section 505 does not explicitly prohibit states from offering unauthorized immigrants in-state tuition it has been proven problematic because it sets a federal mandate for state residency requirements, a determination states typically make. Generally public colleges and universities use graduation from an in-state high school as the main criteria for residency. Currently, 18+ states use this criteria to defend their policies which grant admission and in-state tuition to undocumented students in their state and thus not apply the mandate.

1996: Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) – PRWORA was a large welfare reform that redefined eligibility to social services and programs, and originally barred all immigrants (including authorized immigrants) from receiving Temporary Assistance for Needy Families (TANF), Food Stamps (SNAP), Medicaid, and Supplemental Security Income (SSI). This was eventually amended to include some authorized immigrants; however, undocumented immigrants are still ineligible for these public benefits. PRWORA increased states’ authorities in the provision of public benefit programs by granting them the ability to implement state legislation to regulate the use of state funds. Welfare availability for immigrants now varies from state to state; however, undocumented immigrants are currently barred from these programs in all states.¹²

2001: Federal Development Relief and Education for Alien Minors Act (Federal DREAM Act) - The DREAM Act is a piece of legislation proposed to provide a pathway to permanent residency and eventual U.S. citizenship for qualified undocumented youth and young adults. The DREAM Act was first introduced in 2001 by Senator Dick Durbin from IL. Since its first introduction the

¹¹ Department of Homeland Security: U.S. Citizenship and Immigration Services-Public Law <http://www.uscis.gov/frame/link/docView/PUBLAW/HTML/PUBLAW/0-0-0-10948.html>

¹² Reese, E., Ramirez, E., & Estrada-Correa, V. (2013). The Politics of Welfare Inclusion: Explaining State Variation in Legal Immigrants’ Welfare Rights. *Sociological Perspectives*, 56 (1), 97-130.

DREAM Act has been proposed several times in Congress but has yet to pass. The most recent time that it was brought up to vote was in 2010. Because of the failure of the vote many undocumented youth and young adults still do not have a lawful status.¹³

2012: Deferred Action for Childhood Arrivals (DACA) – On June 12, 2012, the Secretary of Homeland Security announced that certain undocumented people who came to the U.S. as children and meet several guidelines may request consideration of deferred action (protection from deportation) for a period of two years, subject to renewal. They are also eligible for work authorization and a social security number for a period of three years also subject to renewal. DACA recipients are also eligible to apply for advanced parole¹⁴ therefore opening the opportunity to participating in study abroad programs. DACA provides lawful presence, but it does not provide lawful status.¹⁵

2014: Immigration Accountability Executive Action¹⁶ - After two years of organizing by the undocumented immigrant community on November 20, 2014, President Barack Obama announced a series of executive actions on immigration¹⁷ to address immigration that prioritizes the deportations of felons not families, requires certain undocumented immigrants to pass a criminal background check and pay taxes in order to temporarily stay in the U.S. without fear of deportation. The initiatives include expanding the population eligible for DACA, allowing parents of U.S. citizens and lawful permanent residents who have been present in the country since January 1, 2010 to request Deferred Action and employment for three years, and expanding the provisional waivers of unlawful presence to include the spouses and sons and daughters of lawful permanent residents and sons and daughters of U.S. citizens.

¹³ The White House Blog: Get the Facts on the DREAM Act <http://www.whitehouse.gov/blog/2010/12/01/get-facts-dream-act>

¹⁴ Department of Homeland Security: I-131 Application for Travel Document- <http://www.uscis.gov/i-131>

¹⁵ Department of Homeland Security: U.S. Citizenship and Immigration Services - DACA <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca>

¹⁶ The White House Office of the Press Secretary - <http://www.whitehouse.gov/the-press-office/2014/11/20/fact-sheet-immigration-accountability-executive-action>

¹⁷ Department of Homeland Security: U.S. Citizenship and Immigration Services - Executive Actions on Immigration- <http://www.uscis.gov/immigrationaction>