Analysis of Policies Toward Applications from Undocumented Immigrant Students at Big Ten Schools

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Introduction

This Article evaluates the legal and practical barriers for undocumented immigrant students who are state residents and wish to attend universities, qualify for in-state tuition rates, and receive financial aid. Section I describes the legal status of federal and state Development, Relief, and Education for Alien Minors (DREAM[1]) Acts—legislation to permit undocumented students to qualify for in-state tuition, and (in federal proposals) to be eligible for permanent residence in the United States. Section II describes our investigation of the policies and practices of Big Ten universities[2] regarding applications for admission from undocumented students who are state residents but do not have social security numbers. We contacted each of the Big Ten universities through multiple phone calls and website reviews. We found that undocumented students face multiple barriers in applying for admission to these schools, often despite stated policies to the contrary. These findings are discussed in light of the current political support for and criticisms of state and federal DREAM Act proposals. Section III concludes with recommendations for changes in school policies and for further research.

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1. "DREAM" Act refers to federal legislation, while "Dream" Act refers to state-level legislation.

2. When this study was conducted in 2009–10, the Big Ten conference included eleven universities. The University of Nebraska joined the Big Ten conference in 2011 and its policies are not included in this Article.

I. Background

Each year an estimated sixty-five thousand undocumented students who graduate from high school are unable to pursue their dreams of attending college because of their lack of legal immigration status in the United States.[3] Under current state laws, many undocumented students are forced to pay higher out-of-state tuition rates, even if they meet other criteria for residency.[4] Some five-to-ten percent of undocumented students attend college, but many more are qualified and do not attend because they are ineligible for federal financial aid and cannot afford out-of-state tuition levels.[5] Others cannot attend because schools will not admit individuals without legal status.[6] To rectify this, legislative proposals known as "Dream Acts" have been passed by some states and introduced into both Houses of Congress at the federal level.[7]

The federal DREAM Act would create an opportunity for some undocumented students to enlist in the military or go to college, as well as providing a path to citizenship. It was first introduced in the U.S. Senate in 2001[8] and in the U.S. House in 2006.[9] In a 2009 Senate version of the bill, DREAM Act beneficiaries were required to:

- have proof of arriving in the United States before age sixteen;[10]
- have proof of residence in the United States for at least five consecutive years since their date of arrival;[11]
- be between the ages of twelve and thirty-five at the time of the bill's enactment;[12]
- have graduated from an American high school or

3. Am. Immigration Council, *The DREAM Act*, IMMIGR. POL'Y CENTER, http://www.immigrationpolicy.org/just-facts/dream-act (last updated May 18, 2011).

4. *Id.*

5. *Id.*

6. *Id.*

7. Ann Morse & Kerry Birnbach, *In-State Tuition and Unauthorized Immigrant Students*, NAT'L CONF. ST. LEGISLATURES, http://www.ncsl.org/IssuesResearch/Immigration/In-stateTuitionandUnauthorizedImmigrants/tabid/13100/Default.aspx (last updated July 8, 2011).

8. *See* DREAM Act of 2001, S. 1291, 107th Cong. (2001).

9. *See* American Dream Act of 2006, H.R. 5131, 109th Cong. (2006).

10. DREAM Act of 2009, S. 729, 111th Cong. § 4(a)(1)(A) (2009). In the 2011 version of the Senate bill, the age threshold is fifteen, not sixteen. *See* DREAM Act of 2011, S. 952, 112th Cong. § 3(b)(1)(B) (2011).

11. S. 729 § 4(a)(1)(A).

12. *Id.* §§ 4(a)(1)(F), 7(b)(2).

obtained a general education development certificate;[13] and

- be of "good moral character."[14]

Opponents of the DREAM Act have argued that the bill would privilege undocumented students over legal residents of states.[15] To address this concern, a revised Senate bill introduced in 2010 clarified that the Act would not force states to charge in-state tuition rates for undocumented immigrants.[16] In spite of this and other changes, opponents of the Act successfully filibustered and prevented its passage in the Senate,[17] even after President Obama lobbied for the DREAM Act and helped to bring about its passage in the House of Representatives on December 8, 2010.[18] On May 11, 2011, Senate Majority Leader Harry Reid again introduced the DREAM Act in the Senate,[19] only twenty-four hours after a speech by President Obama calling on Congress to pass comprehensive immigration reform.[20] Once again the bill failed. Although the DREAM Act has had bipartisan sponsorship in the past, more recently, several Republican supporters have argued that it needs to be accompanied by other, more restrictive immigration measures.[21] Because of pressure from members of his party, Senator Richard Lugar, a Republican from Indiana and long-time sponsor of DREAM Act legislation, withdrew his name as a cosponsor of the most recent Senate bill.[22]

Twelve states have passed state versions of the Dream Act, allowing undocumented students who have attended and graduated from state high schools to pay in-state tuition rates in

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13. *Id.* § 4(a)(1)(D).

14. *Id.* § 4(a)(1)(B).

15. Brad Knickerbocker, *The DREAM Act Poised for Senate Vote Saturday*, CHRISTIAN SCI. MONITOR, Dec. 17, 2010.

16. DREAM Act of 2010, S. 3992, 111th Cong. (2010).

17. Elisha Barron, *The Development, Relief, and Education for Alien Minors (DREAM) Act*, 48 HARV. J. ON LEGIS. 623, 625 (2011).

18. Lisa Mascaro & Kathleen Hennessey, *House Passes Immigration Dream Act*, L.A. TIMES, Dec. 9, 2010, at AA2.

19. *See* DREAM Act of 2011, S. 952, 112th Cong. (2011); DREAM Act of 2011, H.R. 1842, 112th Cong. (2011) (containing legislation introduced in the House of Representatives similar to that introduced in the Senate).

20. President Barack Obama, Remarks on Comprehensive Immigration Reform in El Paso, Texas, (May 10, 2011), *available at* http://www.whitehouse.gov/the-press-office/2011/05/10/remarks-president-comprehensive-immigration-reform-el-paso-texas.

21. Barron, *supra* note 17, at 650.

22. Amanda Terkel, *DREAM Act Loses Republican Cosponsor Richard Lugar*, HUFFINGTON POST (May 12, 2011), http://www.huffingtonpost.com/2011/05/12/richard-lugar-sponsorship-dream-act_n_860838.html.

college.[23] These include four of the states with the largest populations of potential beneficiaries.[24] Minnesota's Dream Act has yet to pass, but proposed legislation includes language similar to that of other states that stipulate that a student may qualify for in-state tuition if the student meets all of the following requirements:

> (1) high school attendance within the state for three or more years;
>
> (2) graduation from a state high school or attainment within the state of the equivalent of high school graduation; and
>
> (3) registration as an entering student at, or current enrollment in, a public institution of higher education.
>
> (b) This section is in addition to any other statute, rule, or higher education institution regulation or policy providing eligibility for a resident tuition rate or its equivalent to a student.
>
> (c) To qualify for resident tuition under this section an individual who is not a citizen or permanent resident of the United States must provide the college or university with an affidavit that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so.[25]

Not every state's Dream Act permits undocumented students to apply for state aid for higher education.[26] A few states have passed statutes that serve the opposite purpose of Dream Acts, prohibiting the attendance of undocumented students at state colleges and universities.[27] This leads to a confusing variety of state policies, as illustrated by the map in Appendix A.[28]

Legal arguments in favor of the federal DREAM Act are grounded in provisions from *Plyler v. Doe*,[29] the Supreme Court

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23. The twelve states that have passed the Dream Act are: California, *see* CAL. EDUC. CODE § 68130.5 (West 2010); Illinois, *see* 110 ILL. COMP. STAT. ANN. 305/7e-5 (West 2010); Kansas, *see* KAN. STAT. ANN. § 76-731a (2010); Maryland, *see* MD. CODE ANN., EDUC. § 15-106.8 (West 2011) (subject to November 2012 referendum); Nebraska, *see* NEB. REV. STAT. § 85-502 (2010); New Mexico, *see* N.M. STAT. ANN. § 21-1-4.6 (West 2010); New York, *see* N.Y. EDUC. LAW § 355(h)(8) (McKinney 2010); Oklahoma, *see* OKLA. STAT. ANN. tit. 70, § 3242 (West 2011) *invalidated in part by* Thomas v. Henry, No. 107201, 260 P.3d 1251 (Okla. 2011); Texas, *see* TEX. EDUC. CODE ANN. § 54.053 (West 2010); Utah, *see* UTAH CODE ANN. § 53B-8-106 (LexisNexis 2010); Washington, *see* WASH. REV. CODE ANN. § 28B.15.012 (West 2011); Wisconsin, *see* WIS. STAT. ANN. § 36.27(2)(cr) (West 2010) (repealed 2011).

24. Am. Immigration Council, *supra* note 3. California, Texas, Illinois, and New York are four of the seven states with the largest immigrant populations. *Id.*

25. S.F. 2876, 2006 Leg., 84th Sess. (Minn. 2006); S.F. 653, 2007 Leg., 85th Sess. (Minn. 2007).

26. *See infra* Appendix A.

27. *See id.*

28. *See id.*

29. 457 U.S. 202 (1982).

ruling that granted undocumented children access to public schools at the kindergarten through twelfth-grade levels.[30] *Plyler v. Doe* was the first case in which the Supreme Court addressed state classifications of undocumented immigrants under the Equal Protection Clause of the Fourteenth Amendment—a clause that "extends protections to all 'persons' within the United States' jurisdiction."[31] Further legislative support for the DREAM Act can be found in two federal statutes: the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)[32] and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).[33] Together these acts have been interpreted to prohibit offering in-state tuition rates to undocumented students unless the same benefit is also available to all U.S. citizens.[34] The vague language in IIRIRA and PRWORA has opened the door to varying interpretations of the statutes and has served as a tool to both grant and deny undocumented students access to higher-education funding in various states.[35] In 2001, Texas became the first state to pass legislation making undocumented students eligible for in-state tuition.[36] Since then, at least eleven states have passed similar laws, while at least five others have passed legislation denying eligibility.[37] Nonetheless, a number of authors

30. *Id.* at 224–26.

31. Jason Lee, *Unlawful Status as a Constitutional Irrelevancy? The Equal Protection Rights of Illegal Immigrants*, 39 GOLDEN GATE U. L. REV. 1, 1, 6–8 (2008); *see* U.S. CONST. amend. XIV, § 1.

32. 8 U.S.C. § 1623(a) (2006).

33. *Id.* §§ 1611, 1641.

34. *See, e.g.*, Day v. Sebelius, 376 F. Supp. 2d 1022, 1026–28 (D. Kan. 2005) (describing the plaintiffs' contention that the Kansas Dream Act violates IIRAIRA and PRWORA); *see also* Andre M. Perry, *Toward a Theoretical Framework for Membership: The Case of Undocumented Immigrants and Financial Aid for Postsecondary Education*, 30 REV. HIGHER EDUC. 21, 23–24 (2006) (explaining how § 505 of IIRIRA has been used against DREAM Act proponents).

35. *See* Irma Aboytes, *Undocumented Students and Access to Higher Education: A Dream Defined by State Borders*, 12 J. GENDER RACE & JUST. 579, 584–88 (2009).

36. Kathleen Belanger, *Social Justice in Education for Undocumented Families*, 6 J. FAM. SOC. WORK 61, 71 (2001).

37. For states that passed similar legislation see *supra* text accompanying note 23. States that have passed legislation denying eligibility include: Alabama, *see* 2011 ALA. ACTS 535; Arizona, *see* ARIZ. REV. STAT. ANN. § 15-1803 (2010); Colorado, *see* COLO. REV. STAT. § 24-76.5-103 (2010); Georgia, *see* GA. CODE ANN. § 20-3-66 (2010); Mississippi, *see* MISS. CODE ANN. § 37-103-23 (2010), *invalidated by* Jagnadan v. Giles, 379 F. Supp. 1178 (N.D. Miss. 1974); and South Carolina, *see* S.C. CODE ANN. § 59-101-430 (2010). *See also* Michael Olivas, *Undocumented College Students, Taxation, and Financial Aid: A Technical Note*, 32 REV. HIGHER EDUC. 407, 408–10 (2009) (discussing various state legislatures' and courts' approaches to Dream Acts and anti-Dream Acts).

point out that federal law neither denies admission nor mandates eligibility for in-state tuition.[38]

In their analysis of federal statutes and relevant court cases on the issue, scholars Ruge and Iza conclude that "admission of undocumented immigrant students to institutions of higher education and granting of in-state tuition is not only permitted under federal law, but also socially responsible and good public policy."[39] Other studies further this argument by claiming that it would be financially advantageous for universities to admit undocumented students and allow them to pay in-state tuition.[40] The complexity of the issue is reflected in the differences in state laws. California, Texas, Illinois, Kansas, Maryland, Nebraska, New Mexico, New York, Utah, Washington, and Wisconsin have passed state policies that grant undocumented students in-state tuition,[41] whereas Alabama and South Carolina have laws that deny both admission and in-state tuition to these students.[42] Nine other states are considering legislation on the issue in 2011.[43] Based on current trends, it is reasonable to assume that decisions in one state will influence decisions in others.[44] The Department of Homeland Security believes the issue should not be resolved in the federal domain, but rather that states should decide issues of in-state eligibility for undocumented students instead.[45] However, the reality is that state laws influence national policies, and vice versa.

In November of 2010, the California Supreme Court upheld the California Immigrant Higher Education Act, California's state-level Dream Act, allowing universities to offer resident tuition to undocumented students.[46] The court concluded that offering in-

38. *See, e.g.*, Olivas, *supra* note 37, at 408 (reviewing various courts' interpretations of IIRAIRA and PRWORA).

39. Thomas R. Ruge & Angela D. Iza, *Higher Education for Undocumented Students: The Case for Open Admission and In-State Tuition Rates for Students Without Lawful Immigration Status*, 15 IND. INT'L & COMP. L. REV. 257, 278 (2005).

40. Vicky J. Salinas, *You Can Be Whatever You Want To Be When You Grow Up, Unless Your Parents Brought You to This Country Illegally: The Struggle To Grant In-State Tuition to Undocumented Immigrant Students*, 43 HOUS. L. REV. 847, 873–74 (2006).

41. *See supra* text accompanying note 23.

42. *See supra* text accompanying note 37.

43. Am. Immigration Council, *supra* note 3.

44. Karen Branch-Brioso, *State Legislatures Cautiously Consider In-State Rates for Undocumented Students*, 26 DIVERSE: ISSUES HIGHER EDUC. 7, 7 (2009) (describing states' consideration of other states' policies and reasoning).

45. Olivas, *supra* note 37, at 410.

46. Martinez v. Regents of the Univ. of Cal., 241 P.3d 855, 860 (Cal. 2010), *cert. denied*, 131 S. Ct. 2961 (2011).

state tuition to undocumented students is within the state's rights and complies with federal law.[47]

Given the complexity of the issues, it is no surprise that many undocumented students are discouraged from considering higher education. In light of the higher high school drop-out rate of minority students (including undocumented students) compared to White students, researchers have suggested that "the inability to attend college offers no incentive to stay in the game."[48] On the other hand, some undocumented students have been able to find ways to circumvent state policies. For example, some students from Colorado have been able to qualify for in-state tuition in New Mexico, a state that has passed laws denying in-state tuition to undocumented students, by using tuition reciprocity agreements between the two states.[49]

There is ample literature on state and federal laws and policies regarding undocumented students,[50] but we are unaware of research on the specific experiences of undocumented students who attempt to apply for college admission. The purpose of this Article is to fill this void by examining potential barriers to application, admission, and financial aid at eleven large American universities.

II. Investigation of University Policies and Practices[51]

To assess these potential barriers, we studied the following: admissions policies for students with and without social security numbers (SSNs), residency requirements for in-state tuition, availability of financial aid for students without SSNs, and application processes for students without SSNs at each university in the Big Ten conference.

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47. *Id.*

48. Dina M. Horwedel, *For Illegal College Students, an Uncertain Future*, 23 DIVERSE: ISSUES HIGHER EDUC. 22, 24 (2006).

49. Dina M. Horwedel, *Keeping the DREAM Alive*, 24 DIVERSE: ISSUES HIGHER EDUC. 16, 17 (2007).

50. *See* Branch-Brioso, *supra* note 44; Horwedel, *supra* note 48; Horwedel, *supra* note 49; Olivas, *supra* note 37; Perry, *supra* note 34; Ronald Roach, *Hanging in the Balance,* 24 DIVERSE: ISSUES HIGHER EDUC. 14 (2007); Ruge & Iza, *supra* note 39; Salinas, *supra* note 40.

51. A summary of the investigation can be found in the University of Minnesota's Center for Urban and Regional Affairs' Reporter. *See* Marina Aleixo et al., *Analysis of Admissions and Tuition Policies for Undocumented Students at Big Ten Schools*, 41 CURA REP. 15 (2011).

A. Methodology

We began our inquiry by reviewing publicly available information on application documents and statements on each university's official websites regarding the application process and eligibility for in-state tuition. We also determined whether a Dream Act had been passed in the states where each university is located. Our sample included all of the Big Ten institutions: Indiana University, Michigan State University, Northwestern University (Illinois), Ohio State University, Pennsylvania State University, Purdue University (Indiana), University of Iowa, University of Illinois, University of Michigan, University of Minnesota, and University of Wisconsin. All are large, public universities, with the exception of Northwestern University, which is a private school.

Between October 2009 and March 2010, our team of graduate-level students at the University of Minnesota made phone calls and completed online forms to document and compare existing policies and potential barriers facing undocumented students who might apply to Big Ten schools. The students called each of the schools on three separate occasions in order to avoid drawing conclusions on the basis of one conversation with a particular staff or student admissions counselor. Each student called different schools on their first, second, and third attempts in order to reduce interviewer bias. We were able to reach admissions staff or volunteers each of the three times we called the eleven schools, for a total of thirty-three interviews. In the first call, our team made general inquiries about admissions procedures and policies, as well as opportunities for financial aid for undocumented students. In the second and third calls, we asked more specifically how to complete the online admissions applications without an SSN without being considered international students, who are ineligible for in-state tuition. Data from the interviews were analyzed by the team members and then grouped into categories during project meetings with the project's faculty adviser.

B. Findings

At the time of this study, only two of the eight states in our study—Illinois[52] and Wisconsin[53]—had passed Dream Act legislation, allowing undocumented students to qualify for in-state

52. *See* 110 ILL. COMP. STAT. ANN. 305/7e-5 (West 2010).

53. *See* WIS. STAT. ANN. § 36.27(2)(cr) (West 2010) (repealed 2011).

resident tuition. While the legislation in the two states varies, there are key components that both share. To be eligible, students must have graduated from a high school in the state, have lived in the state for a specified period of time, and agree to apply for U.S. citizenship or residency when possible.[54]

In theory, any student should be able to apply to a Big Ten school without possessing an SSN. In actuality, students without an SSN face significant barriers in the application process. In response to our calls to the eleven universities, we were routinely told that an SSN was not required for admission, although it would be required to complete an application for financial aid. This response was generally followed with inquiries as to why the student did not have an SSN; some admissions counselors seemed to assume that we were inquiring about international students or about students who possessed an SSN, but did not want to reveal it due to privacy concerns. It seemed incomprehensible to most phone operators in the admissions offices that a potential applicant might be a state resident who did not have an SSN. As one operator commented, "Wow, so you don't have a social security number? No one has ever asked questions about this before. Can't you get one? So, what do I call you—an undocumented alien?"

In most cases we found that students who persist can circumvent the barriers and submit an application without an SSN, but the process is complex and burdensome, particularly for students who may be applying to multiple schools. For example, each of the schools allow applicants to submit an online application without an SSN, but some automatically filter them to international student applications—a status that mandates non-resident tuition charges.

Definitions of eligibility for state residency and in-state tuition rates are extremely important for undocumented students because without an SSN, they cannot apply for federal financial aid through the Free Application for Federal Student Aid. "[F]or many, the cost of nonresident tuition is an insurmountable barrier," especially without the ability to secure government loans.[55] The basic requirement for in-state tuition is generally

54. *See* 110 ILL. COMP. STAT. ANN. 305/7e-5; WIS. STAT. ANN. § 36.27(2)(cr) (West 2010) (repealed 2011).

55. Editorial, *Remove Barrier to Students, Ease Burden on Those Brought Here Illegally as Kids*, REG.-GUARD (Eugene, OR), Mar. 7, 2011, at A8 [hereinafter *Remove Barrier to Students*], *available at* http://special.registerguard.com/web/opinion/25963839-47/state-students-742-tuition-states.html.csp.

residence in the state for one-to-two years prior to attending school.[56] In some cases, admissions counselors defined in-state tuition eligibility as having attended and graduated from a state high school. This definition reflects language in several state policies regarding undocumented students.[57] Proof of residency differs, but is generally based on the student's (or parent's) permanent address, length of residence, and high school attendance.[58] Despite these clear-cut criteria, our study found that some admissions advisers did not know how to classify a student who had been living in the state and had attended high school there, but who did not have an SSN and was not a citizen or permanent resident of the United States. For example, on the University of Minnesota Undergraduate Admissions website, the "Residency & Reciprocity" section defines residency as follows:

> If you are a U.S. citizen or permanent resident (green card), you are considered a Minnesota resident if: you have lived in Minnesota for at least one calendar year prior to your first day of class attendance, and your primary reason for being in Minnesota is not to attend school.[59]

The first sentence explicitly states that students need legal immigration status to qualify for residency. At other schools, residency requirements are vague and difficult to interpret. At the University of Wisconsin, the policy reads: "In general, you must be a bona fide resident of Wisconsin for at least 12 months prior to enrollment to be eligible for in-state tuition."[60] However there is no accompanying definition of "bona fide resident," just a link to the State's statute.[61] In addition, during our conversations with admissions and residency offices at the University of Wisconsin, we received information that contradicted the residency requirements stated on the website. There seemed to be confusion over

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56. *See* CAL. EDUC. CODE § 68017 (West 2003); VA. CODE ANN. § 23-7.4 (2011); *Residency, Reciprocity, and Tuition Exemption*, U. MINN., http://admissions.tc.umn.edu/PDFs/ResidencyReciprocity.pdf (last visited Sept. 29, 2011).

57. Branch-Brioso, *supra* note 44; Olivas, *supra* note 37.

58. *See* ARIZ. REV. STAT. ANN. § 15-1802 (2010); 110 ILL. COMP. STAT. ANN. 675/20-88 (West 2010).

59. *Costs, Aid & Scholarships: Residency & Reciprocity*, U. MINN. UNDERGRADUATE ADMISSIONS, http://admissions.tc.umn.edu/costsaid/residency.html (last visited Sept. 19, 2011).

60. *Residence for Tuition Purposes*, U. WIS.-MADISON OFF. REGISTRAR, http://registrar.wisc.edu/residence.htm (last visited Sept. 21, 2011).

61. *See id.* Since this study was conducted, the University of Wisconsin has updated its website to reflect the repeal of Wisconsin's Dream Act. *See id.* The website now clarifies that undocumented students will be classified as non-residents. *Id.*

the definition of a "permanent resident," despite the fact that the State of Wisconsin passed Dream Act legislation in 2009.[62]

Illinois is another state that has passed a Dream Act.[63] The University of Illinois system website provides information on the legislation and defines the residency requirement:

> Bona fide residency involves being gainfully employed and actually living in the state for one year, and taking other specific actions which link you to the state of Illinois. It also requires that you *reside in Illinois primarily for reasons that are not related to receiving an education.* It's important that actions be completed before the beginning of the term in which you are attempting to establish residency.[64]

In general, we found many instances in which there was a discrepancy between "official" residency policies stated on a school's website and the information we gathered through phone calls. The majority of schools' official policies stated that only citizens, permanent residents, and—at some schools—other types of immigrants were eligible for resident tuition rates. However, phone representatives frequently stated that students without SSNs could be eligible for resident tuition. At Michigan State, for example, students without SSNs are classified as international students, but are able to apply for a waiver in order to pay resident tuition.

Cost is a major barrier to college attendance for undocumented students.[65] Non-resident tuition rates at the Big Ten schools range from $16,650 per year at the University of Minnesota to $41,592 per year at Northwestern University.[66] Because students without SSNs are ineligible for federal financial aid, even resident tuition rates of $7765 per year or more can be prohibitive.[67] Furthermore, schools offer little support to students searching for alternative sources of financial assistance. While some schools automatically review student eligibility for competitive merit-based scholarships once they are accepted for admission, the phone operators we spoke with were unable to identify other sources of aid, or even other offices within their respective university that could help, except the financial aid office. This created a circular barrier given that students need

62. *See* WIS. STAT. ANN. § 36.27(2)(cr) (West 2010) (repealed 2011).

63. *See* 110 ILL. COMP. STAT. ANN. 305/7e-5 (West 2010).

64. *University-Wide Student Programs: FAQ About In-State and Out-of-State Residency*, U. ILL., http://www.usp.uillinois.edu/residency/res_faq.cfm (last visited Sept. 21, 2011).

65. *Remove Barrier to Students*, *supra* note 55.

66. *See infra* Appendix B.

67. *Remove Barrier to Students*, *supra* note 55.

SSNs to complete applications for financial aid.

III. Recommendations

After several phone conversations with admissions personnel, counselors, and financial aid representatives at Big Ten schools, a disturbing pattern emerged. In general, the personnel answering the phones at these eleven universities were not properly informed about issues related to the application process for students applying without SSNs. Advisers also varied in their willingness to help callers seek further information. In our multiple calls to each institution, we received different and sometimes conflicting responses regarding both admissions procedures and financial aid opportunities for students without SSNs. In some cases we received information on residency requirements for in-state tuition that was at odds with policies published on the universities' websites. In at least one case, the admissions counselor provided information that contradicted state legislation. In that instance, although the respective state had passed a Dream Act, the staff member stated that students who were state residents, but lacked SSNs, would be classified as international students who pay non-resident tuition rates, and would not qualify for any financial aid, federal or otherwise. Such misinformation was common in relation to residency requirements.

Overall, we found inconsistencies between policy and practice in admissions procedures for undocumented students at all of the Big Ten schools.[68] Even schools in Wisconsin and Illinois, which both have Dream Acts, provided conflicting information. While it is theoretically possible to apply for admission to each of the schools without an SSN, in actuality, state residents without SSNs face significant barriers in completing their applications for admission. Furthermore, as we have noted, residency requirements that determine students' eligibility for in-state tuition are often ambiguous or exclusionary.

Many of the schools contacted in this study have official (or unofficial) policies designed to remove barriers for undocumented students applying for admission, but it is evident that these policies have not been communicated to the telephone advisers who are the "gatekeepers" for entry. In order to remedy this situation we recommend the following:

1. Universities should have at least one trained staff person or admissions counselor who is equipped to

68. *See supra* Part II.

deal with the needs of undocumented students, and to whom all relevant inquiries are referred.

2. Universities should explicitly state on their websites what their policies are regarding admission, residency, and financial aid for students without SSNs, as well as information on how to contact a knowledgeable staff person.
3. States preparing Dream Act legislation should consider adding a provision that requires all higher education institutions within the state to report back to the legislature regarding implementation of the Act, as well as the removal of administrative, online, and counseling hurdles for potential applicants who do not have SSNs. Those universities in states that have passed a Dream Act should be asked to report on the Act's implementation and impact.

Finally, our work suggests several areas for future research. In particular, we suggest: studies of barriers to financial aid and potential sources of funding for higher education for undocumented students; follow-up investigations with each of the Big Ten schools to assess changes they have made in their application processes; and an examination of the impact of Dream Acts in states where they have been enacted.

Conclusion

At the time of this writing, President Obama was encouraging Congress to pass the federal DREAM Act.[69] However, the bill has faced considerable opposition from Republicans[70] in spite of reports by the Congressional Budget Office suggesting that the House version of the federal DREAM Act[71] would reduce the federal deficit by over two billion dollars in the 2011–20 period.[72]

We predict there will continue to be challenges to state-enacted Dream Act legislation across the United States. Georgia is the most recent state to endeavor to ban undocumented students from state colleges and universities.[73] In April 2011,

69. Julia Preston, *After a False Dawn, Anxiety for Illegal Immigrant Students*, N.Y. TIMES, Feb. 8, 2011, at A15.

70. *Id.*

71. Dream Act of 2010, H.R. 6497, 111th Cong. (2010).

72. 156 CONG. REC. S10502 (daily ed. Dec. 17, 2010) (statement of Sen. Patrick Leahy).

73. *See* Robbie Brown, *Five Public Colleges in Georgia Ban Illegal-Immigrant Students*, N.Y. TIMES, Oct. 14, 2010, at A30.

Republicans in Maryland were preparing to circulate a petition to force a referendum to repeal the recently enacted Dream Act.[74] A Baltimore County legislator is also planning to sue the state over passage of the bill, arguing that it violates federal law by providing benefits to undocumented immigrants that are not available to U.S. citizens.[75]

Some decisions regarding undocumented students' access to higher education have been grounded in legal arguments.[76] However, other important considerations relate to the social and fiscal consequences of various policies. Ruge and Iza argue that providing access to higher education makes financial sense because it would help undocumented students become economically productive, and subsequently, less likely to need government assistance in the future.[77] Furthermore, access to colleges and universities would not displace U.S. citizen students or drain tax funds.[78] Finally, some authors highlight the impact of existing policies on individual students. Horwedel, for example, describes the plight of Enzo Ferreira, a student who left school in the tenth grade once it became clear that he would be ineligible for financial aid for college.[79] Although such stories are common, they remain at the margins of the debate. Equally important are the social implications of denying higher education and employment to tens of thousands of qualified high school graduates. Ironically, these barriers have been erected at a time when the aging American population has an urgent need for a young, educated workforce.

74. David Hill, *Dream Act Foes Set for Petitioning: Md. Delegate Leading Drive To Put Tuition Measure to Vote*, WASH. TIMES, Apr. 21, 2011, at A14.

75. *Id.*

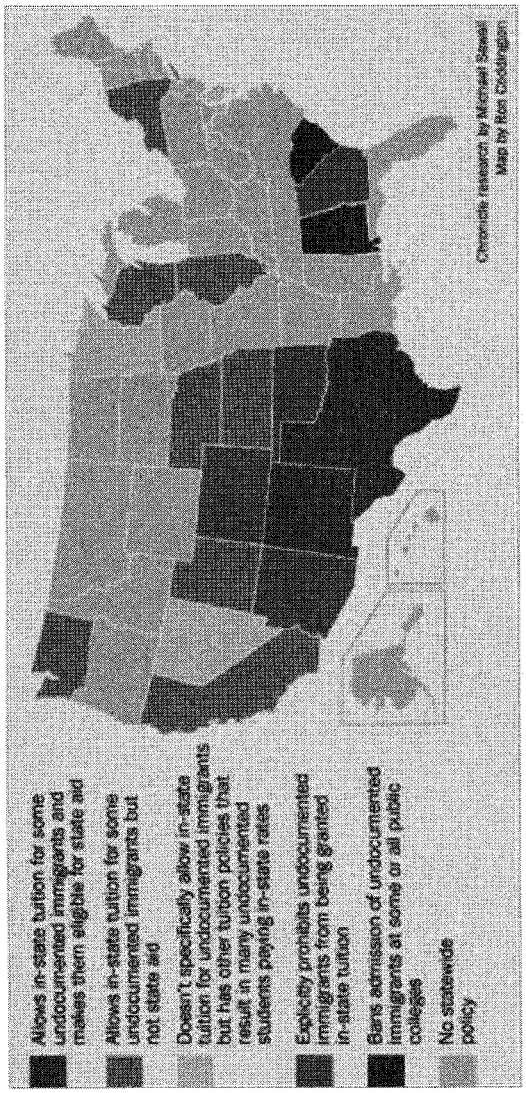
76. *Id.*

77. Ruge & Iza, *supra* note 39, at 275.

78. *Id.* at 276–77.

79. Horwedel, *supra* note 48, at 23.

Appendix A: Map of State Dream Act Policies[1]



1. *States Take Varying Approaches to Immigration and Higher Education*, CHRON. HIGHER EDUC. (D.C.) (July 25, 2010), http://chronicle.com/article/States-Take-Varying-Approaches/123683/.

Appendix B: Resident, Non-Resident, and International Tuition Rates at Big Ten Schools

The figures in the table represent full-time general undergraduate tuition for the 2011–12 academic year. These figures do not include room and board, but some schools include certain fees in their estimates. Note that International "tuition" is often the same as that for nonresidents; however, schools may charge additional fees for international students. States designated with an asterisk (*) have passed a Dream Act.

	Resident	Nonresident	International
U. of Minnesota[1]	$11,650	$16,650	$16,650
Indiana U.[2]	$8432.60	$28,449.10	$28,449.10
U. of Iowa[3]	$7765	$25,099	$25,099
U. of Michigan[4]	$12,440	$37,588	$37,588
Michigan State U.[5]	$11,722	$29,160	$29,210
U. of Illinois*[6]	$14,414–19,238	$28,556–33,380	$29,056–37,528
Northwestern U.*[7]	$41,592	$41,592	$41,592
Ohio State U.[8]	$9711	$24,759	$24,759
Penn State U.[9]	$15,124	$27,206	$27,206
Purdue U.[10]	$9478	$27,646	$28,646
U. of Wisconsin*[11]	$9671.04	$25,420.80	$25,420.80

1. *2011–2012 Undergraduate Tuition & Fees*, U. MINN. ONESTOP STUDENT SERVICES, http://onestop.umn.edu/pdf/tuition_ugrad_2011-12.pdf (last visited Sept. 28, 2011).

2. *Indiana University Student Fees, Bloomington Campus: Fall and Spring Terms, 2011–2012*, IND. U. OFF. BURSAR, http://bursar.indiana.edu/publications/11-12%20Fee%20Schedule.pdf (last visited Sept. 28, 2011).

3. *Fall 2011 & Spring 2012 Per-Semester Tuition and Fees*, U. IOWA OFF. REGISTRAR, http://www.registrar.uiowa.edu/LinkClick.aspx?fileticket=%2fXgw5LMbt%2bM%3d&tabid=95 (last visited Sept. 28, 2011).

4. *Full Term Tuition and Fees*, U. MICH. OFF. REGISTRAR, http://ro.umich.edu/tuition/full.php (last visited Sept. 28, 2011).

5. *Estimated Costs for 2010–11*, MICH. ST. U. OFF. ADMISSIONS, http://admissions.msu.edu/finances/tuition.asp (last visited Sept. 28, 2011).

6. *Tuition & Fees*, U. ILL. CHAMPAIGN-URBANA OFF. ADMISSIONS, http://admissions.illinois.edu/cost/tuition.html (last visited Sept. 28, 2011).

7. *Tuition & Fees: Undergraduate Programs*, NW. U. STUDENT FIN. SERVICES, http://www.northwestern.edu/sfs/tuition/undergrad_tuition.html (last visited Sept. 28, 2011).

8. *Tuition and Fees*, OHIO ST. U. UNDERGRADUATE ADMISSIONS & FIRST YEAR EXPERIENCE, http://undergrad.osu.edu/money-matters/tuition-and-fees.html (last visited Sept. 28, 2011).

9. *Penn State Tuition*, PENN ST. U., http://tuition.psu.edu/tuitiondynamic/rates.aspx?location=up (last visited Sept. 28, 2011).

10. *Tuition and Fees*, PURDUE U. UNDERGRADUATE ADMISSIONS, http://admissions.purdue.edu/costs/tuitionfees.html (last visited Sept. 28, 2011).

11. *Tuition & Fees*, U. WIS.-MADISON OFF. REGISTRAR, http://registrar.wisc.edu/tuition_&_fees.htm (last visited Sept. 28, 2011).