



The Case for the DREAM Act

The DREAM Act (Development, Relief and Education for Alien Minors) is bipartisan legislation that has been introduced in every Congress since 2001. It addresses the situation of undocumented students who have lived in the U.S. for five years or more and graduated from U.S. high schools but find themselves handicapped by their immigration status from pursuing a higher education or serving in the U.S. armed forces. The DREAM Act, in its latest form, would:

- Permit certain immigrant students who have grown up in the U.S. to apply for conditional legal status and to eventually obtain permanent status and become eligible for U.S. citizenship if they go to college or serve in the U.S. military; and
- Eliminate a federal provision that penalizes states that provide in-state tuition without regard to immigration status.

Who would be affected?

An estimated 65,000 undocumented students who have lived in the United States for five years or longer graduate from U.S. high schools each year.ⁱ Of these, only 5-10% are estimated to go on to college (compared to about 75% of their classmates). Many of these students were brought to the U.S. as very small children and have only distant connections with their native countries; they think of themselves as Americans and would be regarded as such by anyone unaware of their lack of documentation. Like most immigrants, they are often exceptionally hard-working and high-achieving students, many of them valedictorians of their class. The barriers to their continuing their education and then to finding suitable legal employment mean a loss not only to these individuals but to the nation that is deprived of the fullest contribution of their talent and energy.

What is the legal background?

The U.S. Supreme Court in *Plyler v Doe* (1982) guaranteed the right of undocumented students to attend K-12 public schools under the equal protection clause. Current federal law does not prevent admission of undocumented students to college, but Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) prohibits states from offering any benefit (such as in-state tuition) to undocumented residents if they do not offer the same benefits to out-of-state citizens.

Twelve states currently have laws permitting certain undocumented students who have attended and graduated from their primary and secondary schools to pay the same tuition as their classmates at public institutions of higher education. The states are California, Connecticut, Illinois, Kansas, Maryland, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah, and Washington. In addition, Rhode Island's Board of Governors for Higher Education voted unanimously to provide access to in-state tuition at the state's public colleges and universities to certain students, regardless of their immigration status, beginning in 2012.ⁱⁱ

The states that allow in-state tuition for undocumented students do so on the basis of graduation from a state public high school and offer the same in-state tuition to residents of other states who have graduated from an in-state high school. In this way, they are able to comply with the Section 505 of IIRIRA.

The DREAM Act would repeal Section 505 and allow states to determine residency for in-state tuition purposes apart from immigration status. It would also provide conditional permanent residency status for students which

would allow them to be legally in the U.S. during their time of study and begin the process toward naturalization. It would allow them eligibility for federal work-study and student loan funding (but not Pell grants) and states would not be prohibited from offering state financial aid.ⁱⁱⁱ

What is the economic impact?

One of the obvious concerns is the potential cost of allowing undocumented students to access higher education at in-state rates. However, the experience of the states currently allowing in-state tuition shows that the number of undocumented students is too small to deprive native-born students of college admission slots or financial aid or to make a significant impact on state college funding. For instance, three years after Texas allowed undocumented students to qualify for in-state tuition rates, the total number of such students paying in-state tuition to the state's colleges and universities amounted to only 0.36 percent of all students in the Texas public education system.^{iv}

Not only are the direct costs of implementing the DREAM Act negligible, but the longer term economic benefits are great, both for the individual students and for the state and nation. According to the Bureau of Labor Statistics, workers who lacked a high-school diploma in 2006 earned an average of only \$419 per week and had an unemployment rate of 6.8 percent. In contrast, workers with a bachelor's degree earned \$962 per week and had an unemployment rate of 2.3 percent, while those with a doctorate earned \$1,441 and had an unemployment rate of only 1.4 percent.^v Studies of undocumented immigrants who legalized their status through the Immigration Reform and Control Act (IRCA) of 1986 reveal that legal status brings fiscal, economic, and labor-market benefits to individual immigrants, their families, and U.S. society in general.^{vi} Given a chance, now-undocumented students will improve their education, get better jobs, and pay more in taxes.^{vii}

The *Plyler v Doe* decision requires that states make the investment in K-12 education for all its residents, documented or not. The DREAM Act allows that investment to pay a return through the increased earning power and increased tax payments of these immigrants on the way to citizenship.

In short, passage of the DREAM Act makes economic sense for the nation as a whole.

Won't the DREAM Act encourage more illegal immigration by rewarding law-breakers?

The DREAM Act targets students who are in the U.S. through no personal decision of their own and often with no connections to another "homeland." Moreover, the requirement that students have lived in the U.S. for five or more years prior to date of enactment eliminates any incentive for new immigrants. To be eligible for DREAM Act benefits, students must already have shown themselves of good moral character and solid academic performance. Indeed, to reach the level of college admission with all the disadvantages of undocumented status is an indication of a remarkable drive to succeed and commitment to contributing to their adopted U.S. homeland.

ⁱ Jeffrey S. Passel, *Further Demographic Information Relating to the DREAM Act*. Washington, DC: The Urban Institute, October 21, 2003.

ⁱⁱ National Immigration Law Center, "Basic Facts about In-State Tuition for Undocumented Immigrant Students," January 2012, <http://nilc.org/basic-fact-instate.htm>

ⁱⁱⁱ National Immigration Law Center, "DREAM Act: Summary," March 2009, <http://nilc.org/immlawpolicy/DREAM/dream-bills-summary-2009-03-31.pdf>.

^{iv} See Immigration Policy Center, "Dreams Deferred: The Costs of Ignoring Undocumented Students," October 2008, <http://www.immigrationpolicy.org/sites/default/files/docs/Access%20to%20Higher%20Ed%209-25%20FINAL.pdf>. The Texas study referenced is Carole Keeton Strayhorn, *Undocumented Immigrants in Texas: A Financial Analysis of the Impact to the State Budget and Economy*, Special Report of the Texas Comptroller, December 2006, p. 5.

^v Bureau of Labor Statistics, *Spotlight on Statistics: Back to School*, August 2007 (http://www.bls.gov/spotlight/2007/back_to_school/).

^{vi} Mary G. Powers, Ellen Percy Kraly & William Seltzer, "IRCA: Lessons of the Last U.S. Legalization Program," *Migration Information Source*, July 2004.

^{vii} Immigration Policy Center, op. cit.