



Making

Eric Balderas, valedictorian of his high school class who is attending Harvard University on a full scholarship, faced deportation to Mexico after being detained by immigration authorities at a Texas airport in June.

the DREAM Act a Reality

BY MARCIA KENNARD KIESSLING

Undocumented students face a wide and varied range of perceptions regarding what they, as a group, add to or detract from U.S. society. The challenges that these students face are monumental, and their stories are inspirational.

Take the case of undergraduate Eric Balderas, valedictorian of his high school class who is attending Harvard University on a full scholarship. Balderas entered the country with his mother at the age of four and grew up in the United States. Recently detained at an airport and held for possible deportation, the story caught the nation's attention and heightened visibility of the plight of undocumented students.

Educators for Fair Consideration is one of many organizations that work to increase awareness of opportunities for Latinos. One of their efforts, a 30-minute documentary film called "DON'T STOP ME NOW," tells the stories of four undocumented youth struggling to get ahead in life. The story is a common one in the Latino community, yet probably unfamiliar to many documented Americans. As the film notes: "They were raised in the United States and consider themselves as American. They have done everything right: excelled in school, distinguished themselves as public servants, and served as role models for their peers. Now they want to go to college. They have the grades and test scores, but the odds are stacked against them. All must overcome severe financial challenges, no access to government aid, and vehement political opposition. Despite these challenges, they hold fast to their dreams and remain committed to traditional American values of hard work and perseverance."

As pointed out in the video, while these students are not American citizens, they were raised in the United States. They call the United States their home and want to contribute to

their communities. Such stories are quite common and illustrate the reality that thousands of undocumented high school graduates face each year. While media attention often focuses on Latino communities, undocumented students come from all ethnicities, reflecting the changing demographics of our colleges and universities and of the larger society. In fact, it is estimated that at least 65,000 undocumented students graduate from U.S. high schools each year "with literally nowhere to go," according to *The Chronicle of Higher Education* ("Why Congress Should Revive the DREAM Act," by George R. Boggs, 2008).

Many senior student affairs administrators consider the challenges of undocumented students as one of their top issues. They share stories of good students who too often live in the shadows, fearing possible deportation. Undocumented students often pay out-of-state tuition even in their home states and work more hours than their college peers. For these reasons, as well as other constraints, many undocumented students avoid getting actively involved in student life despite desperately wanting to belong and contribute in meaningful ways to both their institutions and to this country. Once they graduate, they often face difficult job prospects due to their documentation status.

In writing about feminism (*Feminism is For Everybody: Passionate Politics*, South End Press, 2000), bell hooks noted about society, "They have not rejected its message; they do not know what the message is." Similarly, many individuals have little firsthand knowledge regarding undocumented students



- Valedictorian
- Biology Major
- Harvard Student
- Came to U.S. at age 4

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and related educational access and benefits. What many people know about the educational rights of undocumented students has been learned third hand, making much of their knowledge inaccurate or incomplete. The fact that thousands of these students have lived most of their lives in the United States and have been in the primary and secondary school systems as a result of the 1982 *Plyler v. Doe* court ruling is not common knowledge. When looking at education and society in a holistic sense, one sees a logical progression of access from one institutional level of learning to the next. Indeed, U.S. law has guaranteed undocumented students access to education at the primary and secondary levels, yet not at the higher education level.

Why is the DREAM Act Necessary?

Perhaps the most important precedent to date in terms of educational access for undocumented students is the *Plyler v. Doe* case, which guaranteed undocumented students in Texas the right to attend primary and secondary school without proof of documentation. A small portion of that ruling follows, and a link to the complete ruling can be accessed from www.tourolaw.edu/patch/Plyler. As cited in the ruling, "These children can neither affect their parents' conduct nor their own undocumented status. [457 U.S. 202, 203] The deprivation of public education is not like the deprivation of some other governmental benefit. Public education has a pivotal role in maintaining the fabric of our society and in sustaining our political and cultural heritage; the deprivation of education takes an inestimable toll on the social, economic, intellectual, and psychological well-being of the individual, and poses an obstacle to individual achievement. In determining the rationality of the Texas statute, its costs to the Nation and to the innocent children may properly be considered."

The ruling clearly indicates high regard for the importance of an educated populace and an understanding for children who live in situations out of their control. Although the *Plyler* case addresses the value of education to the nation, it neither extends to nor addresses higher education.

The 1986 *Leticia A. v. UC Regents and CSU Board of Trustees* was the next major move in a similar direction as the *Plyler* decision. The state court case required the University of California and California State University systems to cease the practice of requiring proof of U.S. citizenship or permanent residency when defining state residency for tuition purposes.

In the 1991 *Bradford v. UC Regents* case, the state court held that university policy resulting from the *Leticia A.* case violated federal responsibility to make laws regulating immi-

gration. As a result, undocumented students lost the right to receive in-state resident tuition and financial aid. The federal Illegal Immigration Reform and Immigration Responsibility Act of 1996 followed and is conceptually in line with *Bradford v. UC Regents*, prohibiting states "from providing a post-secondary education benefit to an alien not lawfully present unless any citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident eligible for such benefit," according to a chapter in *New Directions for Community Colleges* ("Community Colleges, Public Policy, and Latino Student Opportunity," by S. M. Flores, C. L. Horn, and G. Crisp, 2006).

It was not until the introduction of the Development, Relief, and Education for Alien Minorities (DREAM) Act that a push back in federal public policy was proposed. Conceptually congruent with the decision in *Plyler v. Doe*, this legislative initiative was first introduced in the 107th Congress. In 2003, The DREAM Act was again introduced in the Senate (S. 1545) and in the House (as the Student Adjustment Act-H.R. 1684). It was approved in Senate committee but never reached a full vote. The latest version of the DREAM Act (S. 729/H.R. 1751) was introduced March 26, 2009, by Sen. Dick Durbin (D-Ill.) and Rep. Howard Berman (D-Calif.). While the DREAM Act has garnered bipartisan support through the years, it has often been lost in more contentious debates over comprehensive immigration reform, resulting in a lack of political will to pass the legislation.

Clarifying the DREAM Act

Growing numbers of undocumented students find themselves successfully completing primary and secondary education requirements only to have limited options for higher education. Undoubtedly, many of these young people will continue to live in this country, be self-sustaining, and contribute to the economic and social well-being of their communities if given the opportunity to participate in the college experience. The DREAM Act can help students achieve these goals.

Generally, the DREAM Act grants undocumented students a pathway to citizenship. If enacted, the DREAM Act will provide undocumented students better access to higher education by granting conditional permanent residency status to those undocumented students who have entered the United States before the age of 16 and have lived in the United States for five years before enactment of the law. To achieve legal residency, these individuals would need to complete at least two years of higher education or military service within six years of high school graduation. As a result of the conditional permanent residency, these students could enroll in colleges and universities that require legal status to matriculate. The law would also repeal section 505 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, which penalizes states that allow in-state tuition regardless of immigration status.

Interestingly, since Section 505 became law, several states have passed their own laws that allow anyone who attended and graduated from high school in these respective states to pay in-state tuition. The DREAM Act does not require states to provide in-state tuition to undocumented students, but

READ MORE ABOUT THE DREAM ACT

A summary of the DREAM Act is offered at the website of the National Immigration Law Center at www.nilc.org/immilawpolicy/dream/dream-bills-summary-2009-03-31.pdf. A concise explanation of the DREAM Act is featured in the winter 2010 issue of the *Journal of College Admission*.

Visit www.actonthedream.org for more information on the coalition as well as the proposed House and Senate bills.



does return such a decision to the state level. Students who meet all requirements for conditional permanent residency status as outlined in the DREAM Act will be eligible for federal student loan and work-study programs.

The Influence of Educators

Higher education constituents are rallying around passage of the DREAM Act in 2010. NASPA is a founding member of the Act on the DREAM Coalition, comprised largely of higher education associations and spearheaded by the Hispanic Association of Colleges and Universities (HACU). The coalition's founding members and additional institutional and individual supporters are committed to the enactment of the DREAM Act legislation this year.

One of NASPA's goals is to provide leadership in higher education through policy development and advocacy for students on important international, national, state, and local issues. Among NASPA's core values are diversity, access, and learning. In accordance with these goals and values, NASPA Executive Director Gwendolyn Jordan Dungy issued a statement on June 16, 2010, in support of the DREAM Act at the Act on the DREAM Coalition press conference. Dungy acknowledged that in order to achieve President Obama's ambitious goal for the United States to have the highest proportion of college graduates in the world by 2020, "student affairs educators are committed to increasing both access and student persistence to graduation... Yet, for the 50,000 to 70,000 undocumented students that graduate from U.S. high schools every year, barriers still remain to their accessing higher education and reaching their full potential as contributing members of society." Dungy noted that instead of providing access that would result in a well-educated and employed populace, current policy promotes an uneducated and/or unemployed or under-employed group.

NASPA Latino/a Knowledge Community Co-chairs Michelle Espino and Juan Guardia concur with this notion of increased education access, noting, "The DREAM Act would provide young men and women across the nation the opportunity to fulfill their dreams of earning college degrees. This legislation opens doors to individuals who have the desire and ability to positively contribute to our society by becoming part of the educated citizenry."

Additionally, the NASPA Public Policy Division has actively supported passage of the DREAM Act since its introduction and is encouraging senators and representatives to cosponsor the legislation. Once a critical mass of cosponsors is reached, Senate leadership has committed to bring the legislation to the floor knowing they have the necessary votes for passage.

The Power of Public Policy

Public policy has the power to greatly influence educational opportunities for undocumented students. A broad approach is needed to educate our society and address common myths regarding undocumented students.

A recent article in the *Journal of College Admission* justifies why educators, particularly college counselors, should support undocumented students ("Why These Students," by K. Gin, Issue 206, 2010). Among other attributes, the author notes that undocumented students have proven their ability to suc-

DREAM ACT WEBINAR

In mid-September, NASPA's Latino/a Knowledge Community sponsored a webinar on the DREAM Act. The event included a discussion by researchers who focused on this topic from the perspectives of the Latino/a and Asian Pacific Islanders communities as well as practitioners who work directly with undocumented students. Archived copies of the webinar will be available in early November 2010 on the NASPA website.

ceed and serve as powerful role models. More pragmatically, she suggests that it is a waste of resources if undocumented students do not attend college, alluding to the fact that the nation already supports elementary and secondary education for this population. Among the most compelling reasons for passage of the DREAM Act that she offers: Undocumented students affirm the belief in the value of hard work, they want to contribute meaningfully to this country, and, when the DREAM Act passes, undocumented youth who have gone to college will have a path to legal residency and work.

A particularly volatile aspect of this issue is undocumented college student access to financial aid benefits. Reports about the financial drain that undocumented immigrants have on the U.S. economy are common. When considered from a broader perspective, it is evident that the DREAM Act can actually help these young people become assets to society. As they move into the workforce, they will contribute their tax dollars in support of elementary and secondary education and other available public services.

As president and CEO of the American Association of Community Colleges, George R. Boggs understands the harsh realities of a generation who has been given the right to attend elementary and secondary school only to be stopped short of education beyond grade 12. His strong appeal for Congress to revive and pass the DREAM Act, in both his writings and at the Act on the DREAM Coalition press conference, highlights positive connections between the act and our nation's economic competitiveness. He argues for business leaders to realize the potential that such a policy holds in helping produce the skilled workforce so desperately in demand. He underscores the value of industry partnerships with other interest groups in urging Congress to pass the DREAM Act.

Current Status of the DREAM Act

By mid-August, the DREAM Act had 40 Senate cosponsors and 128 House cosponsors. Educators and others are actively urging passage of the DREAM Act. Bipartisan support remains strong and unprecedented support among the leadership of relevant committees and the White House contribute to the sense that 2010 is an opportune time to pass the DREAM Act. As noted in Dungy's press conference remarks, no matter what one's feelings about larger immigration issues, the DREAM Act is vitally important to the future of students and this nation. ■

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