

Access to Postsecondary Education for Students without Lawful Immigration Status

Presented by:

Angela D. Iza, Attorney At Law
Lewis & Kappes, P.C.

One American Square, Ste 2500
Indianapolis, IN 46282-0003

aiza@lewis-kappes.com

(317) 639-1210

Access to Postsecondary Education for Undocumented Students

- Over 10 million undocumented immigrants residing in U.S. (Source: U.S. Census Bureau)
- 50,000-65,000 undocumented immigrant students graduate from U.S. high schools each year (Source: Urban Institute)
- In school year 2005-06, at least 2,676 language minority students in the 12th grade in Indiana (Source: Indiana Department of Education)
- It is estimated that at least 500-700 undocumented students graduate from Indiana high schools each year

Economic Impact

- SSA holds approximately \$420 billion from earnings of immigrants who cannot claim benefits. (Source: Social Security Administration)
- Immigrant families use public benefits at lower rates than U.S. families (Source: Urban Institute)
- In 2002, dropout rate for immigrant Latinos over 16 was estimated at 44.2% (Source: MALDEF)
- Average earnings for those with Bachelor's degree is higher
- More than \$5 generated into the economy for every dollar invested in immigrant students' education (Source: Texas study)

Why do we need immigration reform? (Why can't they just get legal?)

- Immigration system is broken
- Narrow categories of eligibility
- Backlogs
- Family reunification
- Lack of employment based nonimmigrant visas
- Border security enhancement

Immigrants Have Rights

- Right to an attorney
- Right to a hearing
- Right to contact consulate
- Right to remain silent
- Police cannot search without warrant or permission
- Never present false documents or falsely claim to be a U.S. citizen

Status of Immigration Proposals in Congress

- Secure Fence Act of 2006
- President's Plan
- Senate Bills
- House Bills
- DREAM Act

Possible Barriers to Postsecondary Ed for Undocumented Students

1. Admission/Enrollment
2. In-state vs. Out-of-state tuition
3. Ineligible for state and federal financial aid
4. Lack of work Authorization

1. Admission/Enrollment

- No federal or state law prohibits enrollment of undocumented student to institution of higher education
- Must meet academic admission requirements of institution like any other student

Guaranteed Primary and Secondary Education

- *Plyler v. Doe*, 457 U.S. 202 (1982):
School-age children guaranteed access to primary and secondary education.
- State Compulsory School Attendance laws mandate children must be in school.

2. In-state vs. Out-of-state Tuition

- Indiana law provides no state definition of residency
- Authority given to Trustees of each institution

Who may be excluded from in-state tuition?

- Overstays (entered U.S. in valid status now expired)
- Students who have lived in Indiana most of their lives and attended/graduated from Indiana high schools
- Those awaiting an immigration benefit or who have a pending application
- Students brought here at a young age by their parents through no fault of their own

Recent Changes at Indiana Schools

- Ivy Tech formal policy change
- IU, Purdue, Ball State, Vincennes informal interpretation of existing policies
- ISU and USI have not addressed the issue yet
- List of contacts

3. Ineligible for State and Federal financial aid

- Do not qualify for federal and state financial aid
- But, may be eligible for private, unrestricted scholarships and grants
- If DREAM Act is passed, will be eligible once they are lawful permanent residents

4. Work After College?

Currently ineligible without valid work authorization.

However:

- Immigration laws constantly changing
- May be eligible for immigration benefit in future
- May already have a pending application and process could take many years
- If return to their country, they will be highly marketable being bilingual with a U.S. degree

Benefits to Indiana

- Increase diversity in higher education
- Reward academic performance and long term residence within the state
- Increase earning power
- Decrease drop out rate
- Positive fiscal impact

Community Resources

- Lewis & Kappes Immigration Attorneys
- Indiana Department of Education, Division of Language Minority and Migrant Programs
- Mexican Consulate
- META at IUPUI on October 6th
- La Plaza