

Multiculturalism and the Global University—Looking Beyond the Great Recession Towards a Brighter Future of Inclusion, Diversity, Access, and Attainment in Higher Education

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EXECUTIVE SUMMARY

THE DREAM ACT

Background. The Development, Relief, and Education for Alien Minors (DREAM) Act was first proposed in the U.S. Senate in 2001 and reintroduced again in 2009, 2010, and 2011. The DREAM Act aims to provide in-state tuition rates to undocumented alien students and offer a path to citizenship. The Act provides conditional status to eligible students provided that they entered the United States before reaching 16 years of age; lived in the U.S. continuously for five years; and graduated from a U.S. high school or obtained a GED.

The Act also has a provision requiring applicants to be of “good moral character” and prove that they have not committed crimes that would make them otherwise “inadmissible” in the U.S. After a six-year conditional status term, DREAM recipients must meet additional requirements to move along through the process: i.e. they must have attended college or served in the military for at least two years and passed certain criminal/moral character standards. If they do not meet these standards, they will lose legal status and be subject to deportation.

Those in favor of the bill say that the Act would contribute to the military’s recruitment efforts, and students who would graduate under the DREAM Act could add an estimated \$1.4-3.6 trillion in taxable income over their careers. Opponents say the Act is an amnesty act and would encourage more illegal immigration.

Education as a Constitutional Right. In 1982 in *Plyler v. Doe* (457 U.S. 202), the Supreme Court decided that a Texas statute denying funding for education of children of illegal immigrants was unconstitutional and violated the Equal Protection Clause of the Fourteenth Amendment. The Court found that the creation of a “suspect class” (i.e. illegal immigrants) was justified, as the parents had committed a crime upon entering the country illegally. However, the children had not committed a crime because they were brought by their parents and had no choice.

Legislative Acts & Higher Education. In 1996 Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) (8 U.S.C. Sec. 1623), which states that an alien shall not be eligible on the basis of residence within a state for any postsecondary educational benefit unless a U.S. citizen of another state is eligible for the same benefit. The loophole is that it does not expressly prohibit a state from providing benefits not based on criteria of residency (e.g., high school attendance). As of 2011, ten states had such laws.

Legal Challenges in Higher Education. In *Day v. Sebelius*, a group of nonresident students attending college in Kansas sued, claiming that the state statute allowing for alien students to receive in-state tuition violated Congressional provisions from IIRIRA. The court dismissed the case because of the plaintiff's lack of legal standing and failure on the part of the plaintiffs to show actual injury.

More recently, in 2010 *Martinez v. Regents of the University of California* became the first state case to decide whether state provisions to provide in-state tuition to illegal immigrants violates federal law. The California supreme court unanimously rejected the claims brought by residents of other states denied in-state tuition. The court reasoned that if Congress had meant to disallow "states entirely from making unlawful aliens eligible for in-state tuition, it could easily have done so" through statute and rejected the claim that the California statute in question operated on a basis of residency, mainly because many nonresidents qualified for benefits as well.

Significance. 65,000 illegal immigrants graduate from high school annually. Nearly 40 percent of undocumented children live below the federal poverty level. Approximately 5-10 percent of these students go to college—compared to the 75 percent of citizens who graduate. Without the DREAM Act or similar state statutes, the costs of attending college are crippling, as they are not eligible for federal financial aid.

Selected Resources

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ACCESS TO HIGHER EDUCATION

Substantial gaps exist among racial/ethnic groups when it comes to college-going rates. Though more minority students have been enrolling, the gap between matriculation and persistence has continued to widen. An issue for access to higher education for minorities has become the disproportionate reliance on loans—particularly among graduate students. According to 2008 data, African Americans and Latinos are the groups most reliant on this funding source, with 68 percent of African American and 58 percent of Latino students supported by loans. Minorities (particularly African Americans) tend to enroll in the lower paying fields, such as education and social sciences, and receive fewer graduate assistantships than White, Latino, or Asian students—thus adding to their financial burden upon graduation. However, for Latinos, the percentage enrolling in higher paying STEM fields have increased because of federal programs and aid specifically targeted for that purpose. (Taken from 2011 study conducted by Ken Redd, Director of Research & Policy Analysis, National Association of College and University Business Officers).

Selected Resources

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MERIT-BASED FUNDING

Several states have adopted merit-based funding programs to increase college-going rates and access. Several scholars have found, however, that these programs do not add to institutional diversity but, instead, fund those students least in need of financial support. In Georgia for example, though it has increased access for minorities, it has not done so at the more selective public institutions—thus creating an even more stratified system.

Selected Resources

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