

MEMORANDUM

DATE: March 1, 2019
To: Congressional Staff
FROM: Miriam Feldblum, Executive Director and Jose Magaña-Salgado, Director of Policy Advocacy and Communications, Presidents' Alliance¹
SUBJECT: Presidents' Alliance Recommendations for Dream and Promise Act of 2019

The Dream and Promise Act of 2019 (Dream 2019) would establish a roadmap to citizenship to immigrant youth commonly known as “Dreamers” and Temporary Protected Status (TPS) holders. The former category contains many individuals who currently hold or held Deferred Action for Childhood Arrivals (DACA). Dream 2019 represents the 116th Congress’ inaugural effort to provide relief to these populations. The Presidents’ Alliance on Higher Education and Immigration (Presidents’ Alliance) urges Members to consider improvements to the bill during the legislative process, including through: (a) changes in the bill text before introduction in the House; (b) a manager’s substitute amendment during the markup; (c) bicameral negotiations for the Senate introduction; and (d) any subsequent conference committee.

DACA allowed approximately 800,000 undocumented youth to access more affordable higher education, work opportunities, driver’s licenses, bank accounts, professional and occupational licenses (in some states), and more. For students, alumni, staff, faculty, and their families and who rely on it, loss of DACA would be [devastating](#) for individuals as well as across campuses and across the entire country. TPS, a form of humanitarian protection provided to individuals who cannot return to their home countries due to violent conflict or natural disaster, provides recipients temporary refuge in the United States, along with work authorization. The federal government currently provides TPS for over [300,000](#) foreign nationals. Many TPS recipients have been in the country for a decade or more. They are a crucial part of the workforce, including at many colleges and universities and have U.S. citizen children in the higher education system. This memorandum provides recommendations to improve Dream 2019 and meet the needs of immigrant youth and higher education community.

I. BACKGROUND

A. WHO WE ARE

The non-partisan [Presidents’ Alliance on Higher Education and Immigration](#) brings together college and university leaders committed to increasing public understanding of how immigration policies and practices impact our students, campuses and communities, supporting policies that create a welcoming environment for immigrant, undocumented, and international students on our campuses; and identifying and sharing best practices. The Presidents’ Alliance is comprised of over 420 presidents and chancellors of public and private colleges and universities, enrolling over four million students in 41 states, Washington D.C. and Puerto Rico. The Presidents’ Alliance collaborates with congressional offices to engage in higher education

¹ For questions regarding these recommendations, please contact Jose Magaña-Salgado at jose@masadc.com or Miriam Feldblum at mfeldblum@presidentsimmigrationalliance.org.

and immigration related advocacy, including providing technical and substantive recommendations to staff and engaging in oversight.

II. RECOMMENDATIONS

A. STATE AND LOCAL EDUCATION EQUITY

1. Equity in Admissions, Enrollment, and Tuition. Currently, immigrant students face a vastly inconsistent patchwork of state tuition access laws. A minority of states have enacted policies that bar undocumented students from applying for admission, enrolling, or being eligible for in-state tuition.² Access to higher education, especially for first generation immigrant students, is critical for long-term success and should be contingent on students' merits—not their immigration status.

Recommendation. We recommend that Dream 2019 adopt a provision that would enable public institutions to allow undocumented students, who otherwise meet a state's residency requirements, to apply for admission, enroll, and receive in-state tuition. This provision also could contain a two-year grace period to allow state legislatures or the appropriate state educational body time to update corresponding policies.

2. American Dream Grants. Federal funding is often used to encourage states and educational institutions to engage in conduct that would expand access to education. Federal funding is not currently tied to the availability of in-state tuition and financial aid for immigrant students, with many states: (a) failing to enact policies that would expand access; or (b) that would explicitly bar students from these educational benefits.

Recommendation. To encourage states to offer in-state tuition and financial aid to undocumented immigrant students, we recommend that Dream 2019 establish a grant program conditioned on states expanding access to in-state tuition and financial aid to immigrant students, similar to previous versions of the Higher Education Act.³

B. FEDERAL EDUCATION EQUITY

3. Access to Federal Financial Aid. For first generation students, especially immigrant youth, lack of funding can represent one of the largest obstacles to obtaining a higher education. Yet, under federal law, undocumented students are ineligible for all forms of federal financial aid, including grants, loans, services, work-study, access to work force programs, and other

² Approximately ten states enacted legislation or provisions that bar undocumented students from applying for admission, enrolling, or being eligible for in-state tuition; while 23 states have no explicit state legislation (though in some of those states, the Board of Regents or system governing Boards, or individual institutions have enacted more inclusive policies, or the states Attorney General have determined that DACA recipients, who meet the state's residency requirements, are eligible for enrollment or in-state tuition). Eighteen states enacted inclusive legislation granting undocumented students who meet a state's residency requirement to access in-state tuition. *Policy Environment*, University Leaders for Educational Access and Diversity (last accessed March 1, 2019), <https://uleadnet.org>.

³ Higher Education Affordability Act, S. 2954 § 415 113th Cong. (2014).

educational and financial support programs.⁴ Previous versions of the Dream Act provided varying levels of access to federal financial aid, but often excluded access to federal Pell grants.

Recommendation. We recommend that Dream 2019 ensure that applicants who receive conditional permanent resident status are eligible for all forms of federal financial aid, including grants, loans, services, work-study, access to work force programs, and other educational and financial support programs.

4. Restoration of State Option for In-State Tuition. Federal law, specifically Section 505 of IIRIRA,⁵ establishes certain barriers to discourage states from offering in-state tuition based on residency. While some states have been able to offer in-state tuition regardless, the continued existence of this provision limits the flexibility of states in this area.

Recommendation. We recommend that Dream 2019 retroactively repeal Section 505 (e.g. enact a repeal as if that repeal had taken effect when the law was initially passed), similar to previous versions of the Dream Act.

5. Expanding Access to ROTC Scholarships, Military Commissioning Programs, and Service Academics. The federal government operates five Service Academics, military academies operated by different branches of the Armed Forces. These academies represent higher education institutions that fully fund a student's education. Noncitizens, including conditional and lawful permanent residents are ineligible for these academies under federal law.

Recommendation. We recommend that Dream 2019 expand access to ROTC scholarships, military commissioning programs, and service academics for immigrant youth with DACA, TPS, or conditional permanent resident status.

C. ACCESS AND EXPANSION OF RELIEF

6. Provide Relief Regardless of Immigration Status and to Deported Youth. Legislation providing relief to immigrant youth has sometimes required that, to qualify for relief, an applicant must lack or have entered without legal status. This requirement unfairly and disproportionately negatively affects immigrant youth who have resided in the United States for extended periods of time under other forms of immigration status (e.g. TPS, DED, dependent visas, etc.) and consider themselves Dreamers. Moreover, many individuals who would qualify for relief were deported under this administration's harsh enforcement policies and the bill should provide relief for this population.

Recommendation. We recommend that Dream 2019 not require applicants to lack or have entered the country without legal status to be eligible for relief.

⁴ Congress should explore the possibility of also expanding collateral federal benefits, including funding to support financial literacy, fax filing, loan counseling, and similar services.

⁵ 8 U.S.C. § 1623 (West 2019).

Recommendation. We recommend that Dream 2019 provide relief to individuals who were previously deported but would meet all of the bill's provisions but for the physical presence and continuous residence requirements.

7. Expanding Criteria for Stay of Removals. Previous versions of the Dream Act provided stays of removal for immigrant youth who did not yet graduate from high school, thus allowing applicants to remain in the country while they worked toward meeting the initial threshold requirement for relief. These stays of removal, however, required regular attendance in school, and did not apply to students that, due to family issues, mental health issues, homelessness, economic issues, or other exigent circumstances temporarily unenrolled from school.

Recommendation. We recommend that Dream 2019 expand stays of removal by not requiring immigrant youth to be enrolled in school to qualify for a stay of removal.

8. Establishment of Grant Program for NGOs. Providing relief to upwards of three million immigrant youth represents an enormous undertaking that will require the collaboration of legal service providers, educational institutions, and community groups. Funding to provide legal representation to those seeking relief, especially those with complex cases; to provide mental health services to applicants; and that can be re-granted to assist applicants in paying filing fees is essential. The Senate immigration bill in 2013 contained a similar grant program that could be used as a model.⁶

Recommendation. We recommend that Dream 2019 establish a grant program to provide funding for non-profit organizations serving immigrant youth seeking relief under the bill, including law school clinics and undocumented student resource centers connected to universities and colleges; these grants should fund legal representation, mental health access, and assisting applicants in paying filing fees.

D. COLLATERAL AND RELATED BENEFITS

9. Expand Access to Professional Licenses. Under federal law, the federal government cannot issue non-qualified immigrants professional, commercial, or business licenses; and, unless a state passes an affirmative law or policy, neither can the state. Almost 25 percent of all workers need an employment license for their job, ranging from nail salon technicians to attorneys.⁷ A recent survey by TheDream.US revealed that 66 percent of DACA and TPS scholars planned on entering a profession that requires a license.⁸ Access to licenses are particularly important for students attending higher education institutions and studying in an educational field that will require subsequent licensing. Importantly, access to licenses are critical for immigrant youth to earn the economic resources to support themselves and their families so they can afford to apply for conditional permanent resident status.

⁶ Border Security, Economic Opportunity, and Immigration Modernization Act. S. 744 § 2106 113th Cong. (2013).

⁷ Ryan Nunn, Occupational licensing and American workers, June 21, 2016, <https://www.brookings.edu/research/occupational-licensing-and-the-american-worker/>.

⁸ *In Their Own Words - Higher Education, DACA, and TPS*, TheDream.US 8, Oct. 2018, available at <https://www.thedream.us/wp-content/uploads/2018/10/TheDream.US-In-Their-Own-Words-Report-Oct-2018-1-2.pdf>.

Recommendation. We recommend that Dream 2019 update federal law so that individuals with an employment authorization document cannot be denied a license based on their immigration status.

10. Restore Advance Parole for DACA. Advance parole allows DACA recipients to leave and return to the United States for educational, employment, and humanitarian reasons. Unfortunately, with the rescission of DACA, the ability of DACA recipients to travel with advance parole was curtailed; with the subsequent injunction failed to restore advance parole. Travel with advance parole is valuable for students required to travel abroad for their educational degree, attend study abroad classes, and who need to travel for employment purposes (and to continue to fund their higher education).

Recommendation. We recommend that Dream 2019 restore the ability of DACA recipients to apply for advance parole during the period before they obtain conditional permanent resident status.