

**PRESIDENTS' | ON HIGHER EDUCATION
ALLIANCE AND IMMIGRATION**

Statement for the Record of

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For a Markup of the House Committee on the Judiciary

**H.R. 2820, the Dream Act of 2019; and
H.R. 2821, the American Promise Act of 2019**

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I. INTRODUCTION

The non-partisan Presidents' Alliance on Higher Education and Immigration (Presidents' Alliance) 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.¹ The Presidents' Alliance is comprised of over 430 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 Congress to engage in higher education and immigration related advocacy, including providing technical and substantive recommendations to staff and engaging in oversight. This statement outlines the Presidents' Alliance key priorities for the markup of the Dream and Promise Act of 2019; and policy principles for future standalone or comprehensive immigration relief that meets the needs of immigrant youth and the higher education community. Please see the Presidents' Alliance's previous statement for the House Judiciary Committee's hearing on protecting Dreamers and Temporary Protected Status (TPS) recipients for a complete overview of all of our recommendations.²

Deferred Action for Childhood Arrivals (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.³ For students, alumni, staff, faculty, and their families who rely on it, the loss of DACA would be devastating to individuals as well as across campuses and across the entire country.⁴ DACA also represents a small subset of the larger Dreamer population, which must also be protected by Congress. Most recently, the Alliance commissioned a Migration Policy Institute report that found that nearly 100,000 undocumented

¹ *Founding Statement*, Presidents' Alliance on Higher Education and Immigration (last accessed March 3, 2019), <https://www.presidentsimmigrationalliance.org/about/statement/>.

² Statement for the Record of Nancy Cantor, Co-Chair, Steering Committee et al., Presidents' Alliance on Higher Education and Immigration, March 6, 2019, available at <https://www.presidentsimmigrationalliance.org/statement-for-the-record-for-house-judiciary-committee-hearing-on-dreamers-and-tps/>.

³ U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, Number of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, by Fiscal Year, Quarter, Intake and Case Status Fiscal Year 2012-2019 (Feb. 28, 2019) (April 30, 2019), <https://www.uscis.gov/tools/reports-studies/immigration-forms-data> (filter by "Deferred Action for Childhood Arrivals (DACA)" category).

⁴ Tom K. Wong et al., *Amid Legal and Political Uncertainty, DACA Remains More Important Than Ever*, Center for American Progress, Aug. 15, 2018, <https://www.americanprogress.org/issues/immigration/news/2018/08/15/454731/amid-legal-political-uncertainty-daca-remains-important-ever/>.

immigrants graduate from U.S. high schools very year.⁵ This research presents a mandate to Congress to provide protections to these immigrant youth and ensure that these high school graduates have the tools to access and succeed in higher education.

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.⁶ The federal government currently provides TPS for over 300,000 foreign nationals.⁷ Many TPS recipients have been in the country for a decade or more. Some TPS holders are students on our campuses. Many are a crucial part of the workforce, including at colleges and universities, and have U.S. citizen children who are current or prospective students in our higher education system. Critically, more than a quarter million of U.S. citizen children have one or more TPS parent.⁸

For procedural reasons, the committee split the Dream and Promise Act into two separate pieces of legislation that will be marked up concurrently.⁹ The below statement for the record refers to both of these pieces of legislation and operates under the assumption that the House Committee on Rules will, on the House floor, unite these bills into a single legislative vehicle. We urge the committee to successfully markup the Dream and Promise Act in accordance with the below legislative priorities.

II. POLICY AND LEGISLATIVE PRIORITIES

A. ACCESS TO FEDERAL PELL GRANTS, LOANS, WORK STUDY, AND SERVICES

For first generation students, especially immigrant youth and adult learners, 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

⁵ Jie Zong and Jeanne Batalova, *How Many Unauthorized Immigrants Graduate from U.S. High Schools Annually?*, Migration Policy Institute, April 24, 2019, available at <https://www.presidentsimmigrationalliance.org/migration-policy-institute-fact-sheet-on-number-of-dreamers-graduating-from-high-school/>.

⁶ *Temporary Protected Status: An Overview*, American Immigration Council, Aug. 1, 2018, available at <https://www.americanimmigrationcouncil.org/research/temporary-protected-status-overview>.

⁷ Zuzana Cepla, *Fact Sheet: Temporary Protected Status*, National Immigration Forum, March 1, 2019, <https://immigrationforum.org/article/fact-sheet-temporary-protected-status/>.

⁸ Leila Schochet and Nicole Prchal Svajlenka, *How Ending TPS Will Hurt U.S.-Citizen Children*, Center for American Progress, Feb. 11, 2019, <https://www.americanprogress.org/issues/immigration/reports/2019/02/11/466022/ending-tps-will-hurt-u-s-citizen-children/>.

⁹ COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, COMMITTEE REPOSITORY, Markup of H.R. 2820, the “Dream Act of 2019”; H.R. 2821, the “American Promise Act of 2019”; and H.R. 549, the “Venezuela TPS Act of 2019” (May 22, 2019), <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=109553>.

programs, and other educational and financial support programs.¹⁰ Federal financial aid represents a key driver to success for immigrant youth seeking to attend and graduate from postsecondary institutions.

Federal financial aid access would also support the more than 40 states that established goals for postsecondary credential attainment, such as a goal of having 60 percent of state residents earn a college degree or other postsecondary credential by 2025; and access to federal financial aid is absolutely critical for states to be able to meet these requirements.¹¹ Colleges and universities serve as key generators of social and economic mobility for all students in our nation and, since 2008, the majority of the new jobs created in the economy are going to college-educated individuals.¹²

Moving forward, we recommend that the Dream and Promise Act ensure that conditional permanent residents (CPRs) are treated as lawful permanent residents (LPRs) for all purposes (aside from the bill's existing disparate treatment for naturalization) and would therefore have access to all forms of federal financial aid, including grants, loans, services, work-study, access to work force programs, and other educational and financial support programs. We strongly oppose any language that would affirmatively bar CPRs from federal financial aid, especially Pell Grants, including the language that was originally part of the Dream and Promise Act but struck through the proposed substitute amendment.

B. REPEAL OF SECTION 505 OF ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Federal law, specifically Section 505 of IIRIRA,¹³ prevents states from passing laws, ordinances, or policies that would offer in-state tuition for undocumented students based on residency unless states offer similar treatment to all out-of-state students.¹⁴ Practically, Section 505 enacts obstacles for states seeking to implement tuition equity between undocumented student residents and other in-state students. Immigrant students who would potentially benefit represent individuals who have lived in the state for most of their lives and, aside from their immigration status, would qualify for in-state tuition.

¹⁰ Congress should also explore the possibility of also expanding collateral federal benefits, including funding to support financial literacy, tax filing, loan counseling, and similar services.

¹¹ Lumina's Goal, Lumina Foundation (last accessed May 20, 2019), <https://www.luminafoundation.org/lumina-goal>.

¹² Robert Shapiro, *The New Economics of Jobs is Bad News for Working-Class Americans and Maybe for Trump*, Brookings Institution, Jan. 16, 2018, <https://www.brookings.edu/blog/fixgov/2018/01/16/the-new-economics-of-jobs-is-bad-news-for-working-class-americans-and-maybe-for-trump/>.

¹³ 8 U.S.C. § 1623 (West 2019).

¹⁴ *Id.*

Importantly, expansion of in-state tuition yields increased economic benefits to the state, including increased tax receipts, greater GDP contributions, and increased spending power in local communities.¹⁵ For example, the New American Economy found that in-state tuition for DACA recipients in Arkansas would yield \$1.2 million in federal, state, and local taxes per year and a growth in \$3.9 million in spending power.¹⁶ Similarly, in state tuition for immigrants in Texas yields over \$400 million in economic activity.¹⁷

In light of this economic boon, over two dozen states and the District of Columbia implemented policies that expanded in-state tuition for undocumented students.¹⁸ Section 505 nevertheless remains an unnecessary barrier to tuition affordability, particularly in light of the previously cited Presidents' Alliance-supported Migration Policy Institute report finding that nearly 100,000 undocumented youth graduate from high school every year.¹⁹

Every version of the Dream Act, and many similar bills, have included the repeal of Section 505 based on near universal agreement that states—not the federal government—should set their schools' tuition policies. The Dream and Promise Act originally included the repeal of Section 505 but the proposed substitute amendment struck this text. It is our understanding and hope that, on the floor of the House the House Committee on Rules will reinsert the following retroactive repeal of Section 505:

¹⁵ *Removing Barriers to Higher Education: The Economic Benefit of Tuition Opportunity in Tennessee (2018 Update)*, New American Economy, March 27, 2018, available at <https://research.newamericaneconomy.org/report/removing-barriers-to-higher-education-the-economic-benefit-of-tuition-opportunity-in-tennessee-2018-update/>.

¹⁶ *An Economic Opportunity: Removing Barriers to Higher Education for Dreamers in Arkansas (Update)*, New American Economy, April 2019, available at <https://research.newamericaneconomy.org/report/an-economic-opportunity-removing-barriers-to-higher-education-for-dreamers-in-arkansas/>.

¹⁷ *Economic Cost of Texas House Bill 413 and Senate Bill 576*, New American Economy, Feb. 26, 2019, available at <https://research.newamericaneconomy.org/report/economic-cost-of-texas-house-bill-413-and-senate-bill-576/>.

¹⁸ *Tuition Benefits for Immigrants*, National Conference of State Legislatures, Jan. 16, 2019, www.ncsl.org/research/immigration/tuition-benefits-for-immigrants.aspx. The total figure cited includes states that have passed legislation, state university systems or institutions that extended access, and states who have extended access to in-state tuition to DACA recipients by order of their state attorney general. In April, Arkansas became the latest state to extend in-state tuition access when Governor Hutchinson signed a bill extending access to in-state tuition to DACA recipients. Melissa Zygowicz, *Governor Hutchinson signs two bills in support of DACA immigrants*, THV11, April 10, 2019, <https://www.thv11.com/article/news/politics/governor-hutchinson-signs-two-bills-in-support-of-daca-immigrants/91-1f3623e8-159f-4bc3-ae1b-3e4e5d014cd2>.

¹⁹ Jie Zong and Jeanne Batalova, *How Many Unauthorized Immigrants Graduate from U.S. High Schools Annually?*, Migration Policy Institute, April 24, 2019, available at <https://www.presidentsimmigrationalliance.org/migration-policy-institute-fact-sheet-on-number-of-dreamers-graduating-from-high-school/>.

SEC. ###. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) In General.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) Effective Date.—The repeal under subsection (a) shall take effect as if included in the original enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

C. EXPANDED ACCESS TO PROFESSIONAL, BUSINESS, AND COMMERCIAL 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.²⁰ A recent survey by TheDream.US revealed that 66 percent of TheDream.US DACA and TPS scholars planned on entering a profession that requires a license.²¹ Access to licenses is particularly important for students attending higher education institutions and studying in an educational field that will require subsequent licensing.

Adjudication backlogs are already at record levels at U.S. Citizenship and Immigration Services (USCIS).²² While applicants will eventually obtain access to occupational licenses after adjusting to CPR status, in the interim period where USCIS is implementing the program and adjudicating applications, these applicants will often be unable to participate in their desired career field—potentially for upwards of a year or more, depending on backlogs. Put simply, access to licenses is critical for immigrant youth to earn the economic resources to support themselves during the pendency of their application; and to generate the application fees for other members in their families.

²⁰ Ryan Nunn, *Occupational licensing and American Workers*, Brookings Institution, June 21, 2016, <https://www.brookings.edu/research/occupational-licensing-and-the-american-worker/>.

²¹ *In Their Own Words - Higher Education, DACA, and TPS 8*, TheDream.US, 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>.

²² Jason Boyd, *USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration*, American Immigration Lawyers Association, Jan. 30, 2019, available at <https://www.aila.org/advo-media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays>.

As originally introduced, the Dream and Promise Act stated that CPRs would have access to professional, business, and commercial licenses.²³ As CPRs, who are qualified immigrants due to their LPR status, are *already* eligible for occupational languages, this section amounted to a restatement of law; and potentially created a negative inference regarding other benefits accruing to CPRs. Consequently, the proposed manager's substitute amendment strikes this language, a modification that the Presidents' Alliance supports. We do, however, emphatically urge the committee to consider provisions that would expand occupational licenses to DACA recipients, TPS & DED holders, and individuals who apply for and have a pending application. We urge the committee to adopt the below language:

Section ###. PROFESSIONAL, COMMERCIAL, AND BUSINESS LICENSES.—Notwithstanding any other law, individuals with DACA, Temporary Protected Status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a(b)), a grant of Deferred Enforced Departure, or an employment authorization document obtained under this Act, shall not be denied a professional, commercial, or business licenses on the basis of their immigration status.

D. RELIEF FOR H4 VISA HOLDERS WHO ARE DREAMERS

The Dream and Promise Acts requires that immigrants must be inadmissible or deportable to be eligible for relief.²⁴ 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 and consider themselves Dreamers. H4 visa holders are dependents, including spouses and children, of temporary workers, including H1-B visa holders. Those under the age of 21 would have potentially lived in the United States (and meet all of the Dream and Promise Act's educational requirements) long enough to satisfy the requirements to obtain initial CPR status but-for holding a current, temporary immigration status. H4 visa holders are particularly important to higher education institutions, as they may represent the family of individuals working or serving in the higher education context or working in collaboration with those on campus. The State Department issued over 130,000 of these visas in FY 2018 and while not all of these individuals would be eligible for relief under the bill, this number demonstrates the outer limits of a population in need of relief.²⁵

The Republican Recognizing America's Children Act took a step in the right direction by providing relief to dependents of certain lawful immigrants; and provides evidence that there is bipartisan support to provide relief to Dreamers with temporary, lawful status.

²³ The Dream and Promise Act of 2019, H.R. 6, 116th Cong. § 103(c) (2019).

²⁴ The Dream and Promise Act of 2019, H.R. 6, 116th Cong. § 102(b)(1) (2019).

²⁵ U.S. DEPARTMENT OF STATE, Worldwide NIV Workload by Visa Category FY 2018 (2018), *available at* <https://travel.state.gov/content/travel/en/legal/visa-lawo/visa-statistics/nonimmigrant-visa-statistics.html>.

As originally introduced, the Dream and Promise Act did not allow TPS or DED holders to apply for the Dream title. The proposed substitute amendment, however, updates the eligibility language to permit these individuals to apply for relief. We support this change. We also urge the committee to continue with changes in this vein and provide protection to H4 visa holders; and explore the possibility of expanding relief to all Dreamers with *any* kind of lawful status. For now, we urge the committee to make the following changes to expand relief to H4 visa holders:

SEC. 101. PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, or without the conditional basis as provided in section 105(c)(2), an alien who is inadmissible or deportable from the United States (or is under a grant of Deferred En9 forced Departure or has temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) or who is the child of another alien who is lawfully present in the United States with status under section 101(a)(15)(H)) if—

III. CONCLUSION

Immigrant students across the nation face many obstacles and lack of consistency in terms of access to higher education, in-state tuition, and financial aid. Immigrant students, who have attended and graduated from high schools in the United States, are integral members of our communities deserving of dignity, respect, and the opportunity to realize their full human potential. Immigrant students who are able to pursue their academic and professional dreams can far better contribute, socially and economically, to our communities and nation.

Uniform access to higher education is essential to ensure that these students will help meet the challenges that lie before us, just as generations of immigrants have done before them. We urge the committee to adopt the Alliance's recommendations, especially in the areas of access to federal financial aid; repeal of Section 505; access to professional, business, and commercial licenses; and providing relief to H4 visa holders. Thank you.