

by Roberto G. Gonzales

More Than Just Access:

Undocumented Students Navigating the Postsecondary Terrain

Over the last few years, increasing numbers of undocumented students have made their way through to two- and four-year colleges and universities. The increased matriculation rates of these students have been aided by several processes: 1) increases in unauthorized settlement in the late 1980s and 1990s, dramatically increasing the numbers of undocumented children coming of age in the United States (Gonzales 2007; Massey et al 2002; Passel and Cohn 2009); 2) in-state tuition laws assisting undocumented students in certain states to offset higher out-of-state tuition fees (Olivas 2007; Rincon 2008); and 3) the increase in community efforts by students and counselors, bringing awareness to students and families of their rights to go to college (Gonzales 2008; McGray 2007; Rincon 2008; Seif 2006). However, as the volume of undocumented youth matriculating into colleges and universities increases, on campus new questions arise as to their specific rights.

To be sure, the postsecondary pursuits of undocumented students are met with opportunities and barriers. While they cannot legally work, vote and drive in most states, they can attend school. But, beyond a baseline of rights in K-12 guaranteed by the 14th Amendment¹, their place in institutions of higher learning is still very unclear. Federal provisions are thin, but do not expressly exclude undocumented students from attending public colleges and universities.² Individual states have attempted to make strides in settling the uncertain situation of college attendance by undocumented students. By seeking to decouple education and immigration, some states have opted to provide those who attend and graduate from state high schools with access to the same in-state tuition rates available to other students attending public colleges and universities in their states.³ Other states have taken the opposite approach by seeking to deny admission to undocumented immigrant students (Gonzales 2009). The vast majority of states, however, simply do not have any state policies with respect to undocumented immigrant students.

However, even when state legislation allows undocumented students to qualify for in-state tuition, it does not trump federal law to provide broader legal access to institutions such as the labor market and the electoral system. Also, negating some of the positive effects of in-state tuition allowances are laws restricting undocumented students from competing for federal financial aid. Within the confines of the university, many questions remain about

its reach. While in-state tuition laws have increased educational access in some states (Flores 2009; Kaushal 2008) they do not address broader rights on campus. Moreover, eligibility requirements place students in more direct contact with university officials, where uncertainty falls to the discretion of individuals and administrative units. Further, the circumstances of undocumented students in all states engender greater and continued needs on campus, and increased contact with offices that may or may not have answers about their participation. As a result, undocumented students in institutions of higher learning are often left with more questions than answers.

Undocumented Students Navigating The Postsecondary Terrain

This article lays out some of the structural barriers that exist for undocumented students negotiating postsecondary options, and examines the range of services offered on campus that 1) are clearly off-limits to undocumented students; 2) still provide little clarity as to whether or not undocumented students can participate; and 3) are available to these students.

There are several clearly stated policies at the government and institutional levels to which both students and administrators can refer to when determining eligibility for services. There are also, however, a number of programs and courses of study for students that challenge the already unclear intersection between education policy and immigration law. Moving towards greater clarity will help us to achieve greater levels of inclusion.

¹ In 1982, the Supreme Court ruled in *Plyler v. Doe* that undocumented children are “persons” under the Constitution and thus entitled to equal protection under the law according to the 14th Amendment. The court held that states therefore may not discriminate against them on the basis of their legal status in the provision of public elementary and secondary education (Olivas 2005 1986). As a result of the *Plyler* decision, almost all undocumented children attend elementary school, and tens of thousands of undocumented students manage to graduate from high school each year (Passel 2003).

² Federal law does not expressly prohibit the admission of undocumented immigrants to US colleges and universities. In contrast to employment law, no federal statutes require disclosure and proof of immigration status and citizenship in order for students to enter higher education.

³ Since 2001, Texas, California, Utah, Washington, New York, Oklahoma, Illinois, Kansas, New Mexico, and Nebraska and Wisconsin have passed laws permitting certain undocumented students who have attended and graduated from their primary and secondary schools to pay in-state tuition at public institutions of higher education.

The Constraints of Undocumented Life

Before turning to specific policies at the institutional level that shape the postsecondary experiences of undocumented students, it is important to first examine the everyday barriers that structure their lives on and off campus. The circumstances of adult life present several constraints in making the most of their years in college. Among several factors, family circumstances and the general legal terrain pose both practical limitations and legal barriers.

Most undocumented students live in households where at least one parent is undocumented (Chavez 1998; Passel and Cohn 2009). Further, the vast majority lives in poverty.⁴ As a result, their families struggle economically, and children often bear more than their fair share of the burden. Because of limited economic resources, most of these families cannot afford to contribute financially to their children's education. This leaves students on their own to come up with enough funds to cover tuition and other associated costs. Moreover, the college pursuits of the children often produce tensions within households that cannot afford to have family members not contributing. Many undocumented students with whom I have spoken have responsibilities to take care of younger siblings, translate for their parents and contribute financially to the household. These responsibilities, however, pull students away from educational pursuits.

Additionally, legal limitations force undocumented students into a narrow range of options, and in pursuit of less than ideal alternatives. Among significant legal barriers, are obtaining a driver's license (in most states) and a work permit. Certainly working requires legal authorization and in most states, obtaining a driver's license is contingent upon legal residence. These important markers of adulthood generally signal the onset of a new set of roles and responsibilities for young adults. The inability to work severely restricts students' ability to generate money for college. And not being able to drive forces students to make other arrangements, such as finding rides from friends and relying on public modes of transportation. In cities with comprehensive public transit systems, this is a feasible option. However, in smaller towns or large cities with less extensive transit systems, this option severely impinges on already restricted free time. Many students in Southern California, for example, spend three to four hours a day commuting by bus.

Taken together, these barriers conspire to limit time spent on campus. When family need takes time away from educational pursuits and legal restrictions require students to make less

time-efficient choices, there is a trade off that is made that often involves less than ideal levels of time on campus to enjoy the benefits of the university experience, meet with professors during office hours and join peers in class-based study groups. While it may be argued that many poor and working students confront similar circumstances, it is difficult to dispute the reality that immigrant status constraints erect considerable barriers for undocumented students. Once on campus, however, these barriers multiply.

Legal Restrictions

Immigration restrictions push undocumented students into a narrowly circumscribed range of possibilities on campus. Not only are they limited in terms of financial assistance, but they are also restricted from receiving crucial supports tailored to meet the needs of low-income students. The exclusion from these important supports severely constricts opportunities for successful postsecondary experiences.

Perhaps the biggest structural barrier to a successful postsecondary experience is financial. As has already been mentioned, federal immigration laws prohibit undocumented students from receiving any form of federal student aid. And, with the exception of a couple of states⁵, these students are also not eligible for any state aid. Without financial aid, meeting the costs of a public university becomes extremely difficult. While there are a limited number of available scholarships and some aid at a handful of private colleges, scholarships are too few and tuition at private schools is often much higher than at public universities.

The inability to apply for financial aid is, indeed, prohibitive. Without financial assistance, it is extremely difficult for most Americans to afford a public university. Given the socioeconomic profile of most immigrant families, the cost of college is daunting if not out-of-reach for undocumented students. An estimated two-thirds of all full-time college students receive some form of grant aid. In 2007-08, undergraduate students received an average of \$8,896 per full-time equivalent (FTE) student in financial aid, including \$4,656 in grant aid and \$3,650 in federal loans.⁶ When one considers that a very large proportion of students in the United States receive some form of financial aid, it is not difficult to imagine how restricted access to financial aid stalls, diverts and derails educational pursuits.

Beyond the restricted access to financial aid, undocumented students cannot participate in a host of federally-funded programs

⁴ Nearly 40 percent of undocumented children live below the federal poverty level (compared to 17 percent of native-born children), while the average income of undocumented immigrant families is 40 percent lower than that of either native-born families or legal immigrant families. Jeffrey S. Passel, *Unauthorized Migrants: Numbers and Characteristics* (Washington, DC: The Pew Hispanic Center, 2005).

⁵ Texas, New Mexico and Oklahoma have passed stage legislation allowing undocumented students to compete for state aid. In 2007, Oklahoma rescinded its in-state tuition and financial aid benefits to undocumented students.

⁶ See The College Board, *Trends in College Pricing 2009; Trends in Student Aid 2008; and Education Pays 2007*.

Taken together, the inability to receive financial aid, exclusion from important federally-funded sources of support, and restriction from any form of work study, tremendously limit on-campus options for financial, social and academic support.

designed to assist low-income students. Among these programs, TRIO programs (initially just three programs) are perhaps the most critical to low-income and first-generation college students. In 1965, under Title IV of the Higher Education Act, Congress established TRIO to assist in the matriculation, retention and graduation of low-income students. Today, these educational opportunity outreach programs serve and assist more than a million low-income, first-generation students. Because TRIO receives federal funds, undocumented students are not entitled to participate. Practically, this means that several outreach programs that provide services critical to low-income and first-generation university students, such as academic support assistance, skills-building and research opportunities, are off-the-table for undocumented students.

Additionally, immigration laws prohibit undocumented students from activities such as study abroad programs that entail travel outside the country, and any paid internships or student employment. Taken together, the inability to receive financial aid, exclusion from important federally-funded sources of support, and restriction from any form of work study, tremendously limit on-campus options for financial, social and academic support. Coupled with low family income, high family need and the inability to engage in most means towards earning money, undocumented students find the road through higher education to be an increasingly narrow pathway.

Gray Areas of Participation

Beyond legal exclusions, there are also programs and services for which there are no definitive answers as to whether or not undocumented students can participate. This ambiguity often leads to de facto exclusion. Much of the confusion can be attributed to a lack of clear guidelines at multiple levels as to the spectrum of rights of undocumented students. While there are clearly stated policies to which both students and administrators can refer when trying to determine eligibility for services, there are many programs and courses of study for students that challenge the already unclear intersection between education policy and immigration law, often because until now there have been no precedents. Much of the gray area exists in programs that require licensing and certification.

Due to the timing of growing numbers of undocumented youth coming of age at a time when in-state tuition laws have now been on the books for the last eight years, increasing numbers of undocumented students are making their way through college and thinking about their futures. However, because there has yet to be a federal solution to their paradoxical circumstances, very few options exist after college. As a result, many students find the further pursuit of education a legally available, albeit financially tenuous, choice that allows them to buy time and build human capital and experience while they wait. For many American-born students thinking about employment options, advanced degrees are necessary for securing well-paying jobs. Similarly, for many undocumented students, moving on to graduate and professional programs is the logical next step along their educational trajectory. However, many pathways to post-baccalaureate education and training are blurred by legal uncertainty. As greater numbers of undocumented students receive four-year degrees and make strides to continue their education exploring these gray areas becomes increasingly more important.

Many universities offer professional programs at both the undergraduate and graduate levels that allow students the opportunity to gain hands-on experience in their professions while earning important credentials. Students often have the opportunity to begin these programs during their undergraduate studies and continue them after the completion of the bachelor's degree. Such allowances provide students the means through which to gain experience and to get a head start on certain requirements. However, because many of these programs include a direct service component (in the classroom or the hospital), they require a background check with fingerprints. Many of these also require students to successfully pass a state exam.

In his interaction with undocumented students over the last few years, the author has met students who have been denied access to these programs, and others who have found their way into and through some of the very programs to which others have been denied. Most administrators of these programs generally err on the side of caution. Many of them point to the inability to obtain

a license or pass state exams at the end of these programs, or to the reality that pursuing these programs offers no change in students' legal circumstances. Others give examples of legal barriers such as background checks and requirements for state-issued forms of identification as the rationale for dissuading students.

However, I have met scores of students pursuing teaching credentials, nursing certification and law degrees. These students discovered on their own that there was no official stipulation that entry into such programs would be denied if a person does not have a Social Security number. They were able to successfully complete background checks and enroll in and pass entrance and state exams. While many online forms of registration cannot be completed without a Social Security number, students can submit paper versions via mail and when being processed for fingerprinting. In doing so, students substitute their countries' Consular Identification cards for the State ID, and Individual Taxpayer Identification Numbers (ITINs) for Social Security numbers.

Because there is no consensus on institutional policy for participation in credential and licensing programs, many undocumented students are denied or discouraged from applying. However, federal law does not expressly forbid undocumented students from participating, and there are growing numbers of precedents throughout the country. In the next few years, it will be incumbent for universities to provide more clarity and direction to undocumented students with regard to their ability to participate.

A Baseline of Permissible Pursuits

Because of the numerous exclusions and gray areas, it is important for campuses to take inventory of existing possibilities and available resources for undocumented students pursuing higher education. Certainly, once on campus, undocumented students are entitled to take classes, receive academic counseling and a baseline of services that is provided to the general student body. Also, while I have observed students being initially denied entry to placement tests (e.g., in math and languages), most colleges and universities have provided guidance about alternative forms of identification to those proctoring exams.

Beyond instruction, social and academic support is in great need among students who do not have in their immediate family networks, members who have gone through college and are able to chart a path for them. While federally-funded programs are off-limits, student affairs and academic counseling offices are generally available to undocumented students on their campus. As students of the university, undocumented students are often viewed as "automatic clients" (Marrow 2009), and part of an overall student population to be served. Moreover, be-

cause of their special financial and legal circumstances, many student support services staff view them as members of a vulnerable population in need of services.

While financing postsecondary education is made difficult by restrictions on federal and state aid, a host of private scholarships are available. Generally, most American students finance their education through a combination of government-funded financial aid and private scholarships. Because of their exclusion from the former, undocumented students must thoroughly search out existing private scholarships—both local and national—that do not require US citizenship as a requirement for receipt. This requires students to spend extra hours in their search. Some national organizations, however, have provided assistance by consolidating listings of scholarships. National organizations such as Mexican American Legal Defense and Education Fund (MALDEF) and the League of United Latin American Citizens (LULAC), as well as local ethnic and community organizations, regularly compile and distribute lists of scholarships that do not have such restrictions.

Beyond existing scholarships, students have found support through local institutions and individual sponsors. Community institutions are easing some of the financial burden for undocumented students and their families by providing generally smaller, yet crucially needed, sums of money to help offset tuition costs or to pay for books and other expenses. Additionally, many undocumented students have found useful existing networks of school, or community-based mentors to provide scholarships and also ongoing social support and guidance to help them through their years at the university.

Conclusions

Until now the debate concerning undocumented students and postsecondary education has largely been a question of access. To be sure, these debates continue. States, public higher education systems, and individual institutions debate whether undocumented students should be allowed to attend colleges and universities, while other states consider in-state tuition and state financial aid options. While broader access to higher education is critical, it is only part of the puzzle, as issues of access do not provide adequate answers to questions regarding the experiences of undocumented students within colleges and universities, and whether or not they are receiving sufficient levels of service to be able to persist and graduate. Demographic clues suggest that increasing numbers of undocumented students are entering two- and four-year institutions of higher learning. But how are undocumented students experiencing postsecondary pursuits? And how do colleges and universities smooth or stall their advancement towards graduation and post-baccalaureate programs?

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Currently, the postsecondary pursuits of undocumented students are severely constricted due to exclusion from federal financial aid and important support programs and ambiguity in public and institutional guidelines for participation. Restriction from the receipt of financial aid not only serves as an initial barrier to matriculation, but also an ongoing source of stress and worry as undocumented students attempt to pursue postsecondary education. Equally debilitating is the inability to receive crucial support services on campus. Federal financial aid and social and academic support services were initiated to level the playing field by assisting disadvantaged student populations to be successful on college campuses. Being shut out of these important supports is tantamount to starting the race many steps behind the starting line and with cement blocks around one's feet. But beyond these exclusions, undocumented students are confronted with a number of dead ends and barriers. While some opportunities require federal permission (i.e., to work or leave the country), others require the admittance by key gatekeepers on campus.

As increasingly more undocumented students matriculate into our colleges and universities, it is incumbent upon these institutions to take stock of their various rights on campus and provide staff with appropriate guidelines and training to promote awareness and cooperation so students can receive assistance with and entry into permissible services, programs and courses of study on campus. Further, it is not helpful to students or universities to have uncertainty and ambiguity in policies. Therefore, campuses must move towards clarity by working with state and federal entities to resolve any legal uncertainties that have emerged with certification and licensing programs and provide clear and accessible guidelines for participation.

As our country wrestles with issues of postsecondary access for undocumented students, we must draw a larger circle and ask about the range and quality of educational opportunities for these students on campus.



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