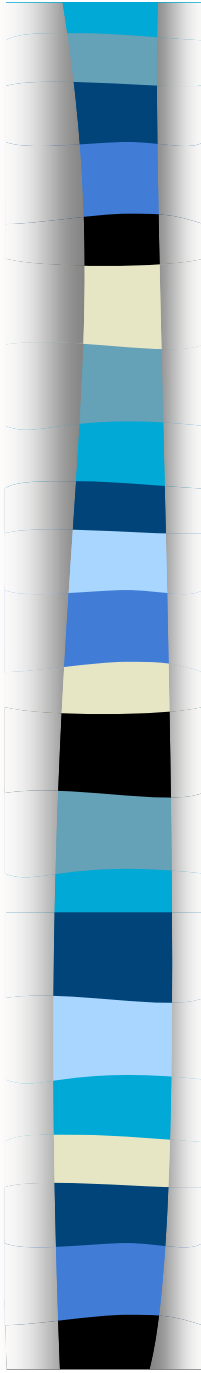


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Presenter's Institution	1) The University of Texas at Austin, 2) Art Center College of Design, 3) Hispanic Scholarship Fund

# **Buying Time, Paying Tuition: Undocumented College Students**

NAFSA 58th Annual Conference  
Montréal, Québec, Canada  
May 21–26, 2006

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# Who are undocumented immigrants?

Foreign nationals who entered the U.S. in one of the following ways:

- 1) circumventing proper inspection by an immigration official at a sea, air, or land port of entry
- 2) presenting fraudulent documents during inspection
- 3) legally, in a valid nonimmigrant status (such as a student status or tourist status) but remaining in the U.S. past the expiration of the immigration document

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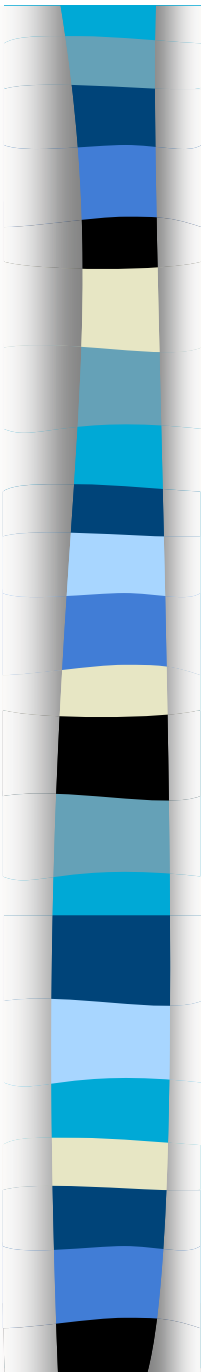
## Who are undocumented immigrants?

- **There are approximately 11 million undocumented immigrants in the U.S.**
- Every year, approximately 65,000 undocumented students graduate from U.S. high schools.

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## Brief History of Undocumented Students' Access to Education

- 1975** Texas law withhold funds from school districts that enrolled undocumented children.
- 1982** Supreme Court rules in *Plyler v. Doe* undocumented children have access K-12
- 1996** Section 505 of the *Illegal Immigration Reform and Responsibility Act* limits preferential treatment of aliens not lawfully present on basis of residence for higher education benefits



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# **Texas' In-State Tuition Bill HB 1403/SB 1528 Requirements**

1. Graduate from high school or have received a GED
2. Reside in Texas at least 3 years before graduation
3. Sign an affidavit stating that student will file an application to become a permanent resident of the U.S. as soon as he is eligible to do so.

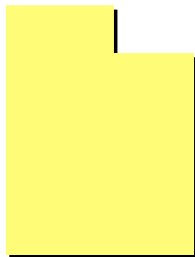
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## Other States' Initiatives



### California AB 540 (10/12/01)

Previous version vetoed  
No financial aid (AB 153)  
No affirmative action



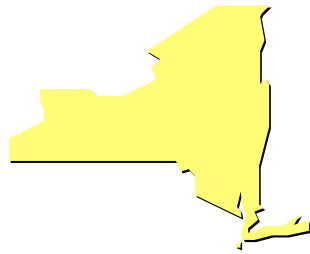
### Utah HB 144 (3/6/02)

Implementation held initially re: federal argument;  
No financial aid  
Exemption from nonresident tuition

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## Other States' Initiatives



### **New York** SB 7784 (6/25/02)

Only requires 2 years

Applies to SUNY & CUNY

No financial aid

Followed 9/11 restrictions



### **Washington** HB 1079 (5/7/03)

Only 1 year requirement

3 years living in state before admitted to college

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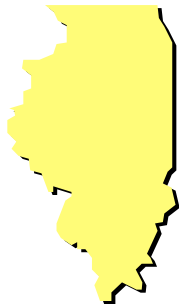
## Other States' Initiatives



### Oklahoma

**HB 1559 (5/12/03)**

Only two year requirement  
Provides financial aid



### Illinois

**HB 0060 (5/18/03)**

Only for certain universities



### Kansas

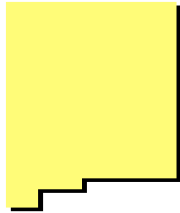
**HB 2145 ( 5/28/04)**

Federation for American Immigration Reform  
(FAIR) lawsuit dismissed July 2005



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## Other States' Initiatives



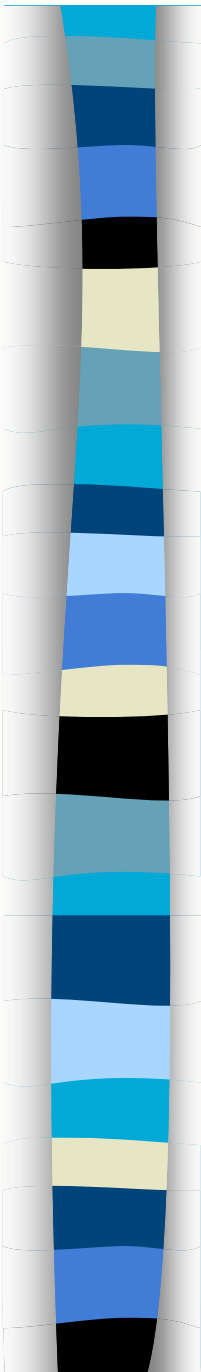
### **New Mexico** SB 582 (3/15/2005)

1 year high school attendance or GED  
 Eligible for state-funded full tuition scholarships  
 (2.5 GPA)  
 Open to citizens of all countries



### **Nebraska** LB 239 (3/13/2006)

Overrode Governor Dave Heineman's veto  
 in the wake of massive immigration protests



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# **Challenges Ahead**

## **Legal Lawsuits and Complaints Against Laws**

### **1. Federation for American Immigration Reform (FAIR)**

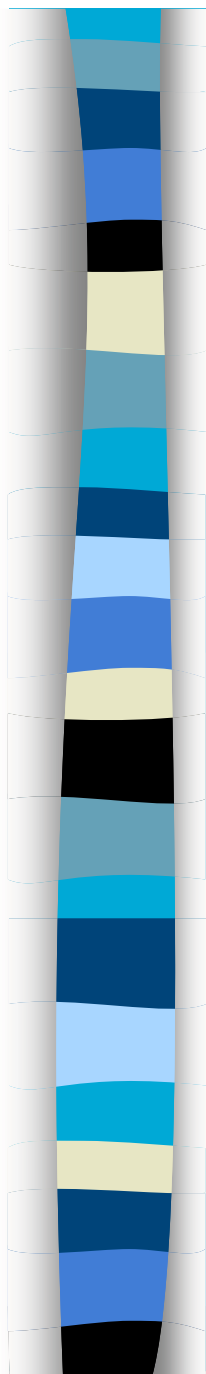
- Federal lawsuit dismissed July 2005

### **2. Washington Legal Foundation**

- Filed complaint against Texas and New York with the Office of Civil Rights of the Department of Homeland Security

### **3. Class Action Lawsuit in California – "Tuition Fairness for Americans" lawsuit**

- Claims California lawmakers and members of the UC Board of Regents violated federal law (Section 505)



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## School Policies and Practices

- What does Immigration say about admitting/enrolling undocumented students?
- What does NAFSA say?
- What do we as advisors think?

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# School Policies and Practices

## DHS / USCIS:

[paraphrased conversation between a DSO and DHS and CIS]

DSO: "Can my school admit undocumented students?"

1<sup>st</sup> CIS: "Your school should develop your own policy on admissions procedures."

DSO: "Would we be penalized for admitting undocumented students?"

DHS: "There is no rule about it so what would you be in violation of?"

DSO: "Can my school admit undocumented students?"

2<sup>nd</sup> CIS: "NO! This is not permitted. If you do, your school will be held accountable!"

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# School Policies and Practices

## General Survey:

- Does your institution admit undocumented students? (30) Yes (3) No
- Does the student pay in-state or out-of-state tuition? (6) In-State (10) Out-of-State (17) N/A
- Eligible for school scholarships (non-Federal)? (20) Yes (6) No (6) Unknown
- Is the student eligible for financial aid from the state? (1) Yes [TX] (21) No (10) Unknown
- Undocumented students classifications on campus? international student, domestic, other
- Do you have a written policy? (2-4) Yes (19) No (10) Unknown
- Who determines eligibility of undocumented students? Admissions, International Student Office, Board of Trustees

"It is the responsibility of the Admissions Offices to decide if a student meets the academic admission standards. It is the responsibility of the International Office to determine the status of all non-citizens that have been accepted. If an accepted applicant is determined to be undocumented, I make note of the situation, provide counseling if appropriate, but I do not take any action to force the Admissions Office to rescind the acceptance."

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# School Policies and Practices

## General Survey:

- If your school does not admit undocumented students, why not?

"The Admissions Office does not believe they should admit undocumented students; they think it's a liability. However, once a student is enrolled and he/she falls out of status, we do not block them from continuing to be a student. I have provided many listserv messages and other discussion pieces on this area to the admission areas, but they have not changed their practice of refusing admission to undocumented students."

"Admission is conditional upon gaining status. If students cannot gain status, the board of directors prefers we not bring them in."

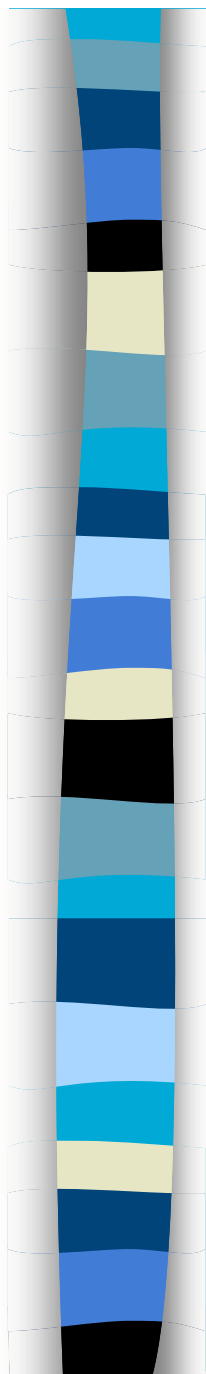
- Do you think undocumented individuals should be permitted to attend college in the U.S.?  
(30) Yes    (0) No    (1) depends    (1) not my decision

"They should be admitted, provided they can fund it."

"Yes, but not at in-state tuition rates."

"Absolutely! Admission should be based on merit, without regard to immigration status."

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# School Policies and Practices

## General Survey: Questions/Comments:

“Are universities at liberty to set their own policies with regard to undocumented students?”

“Is it legal to deny admission to someone based on immigration status?”

“Is it legal to admit undocumented students? Can we be penalized for it?”

“Could policy be discriminatory to persons who entered the U.S. in a legal status, but failed to maintain that status? “

“What if a student refuses to go in for reinstatement? Are they kicked out?”

“How are other schools dealing with undocumented students?”

“Why are we, as professionals in a field that promotes educational access for all non-U.S. citizen students, not more vocal and active regarding these undocumented students and their educational rights? Why is NAFSA so reluctant to advocate on these issues?”

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# The Student Perspective

An “invisible” group, undocumented students rarely receive services targeted toward their specific needs.

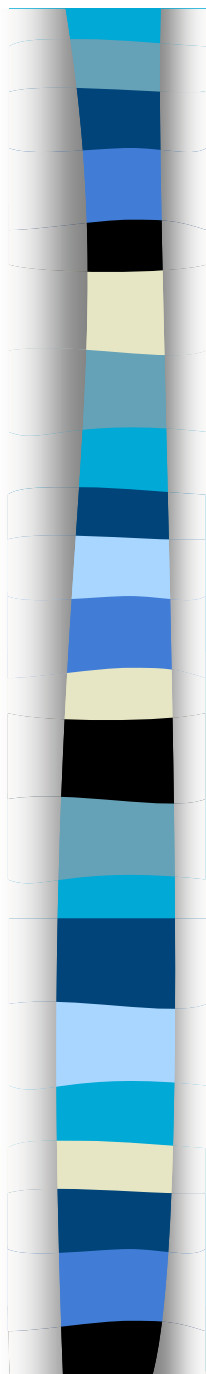
## Issues faced by undocumented students:

- Financial issues (Not eligible for federal aid and most scholarships)
- Wide range of academic preparedness: remedial to valedictorians
- First-generation college students
- Decreased opportunities
  - Teacher certification
  - Nurse registration
  - Study abroad
  - Trips with friends
  - Limited number of schools to transfer to
- Immigration issues



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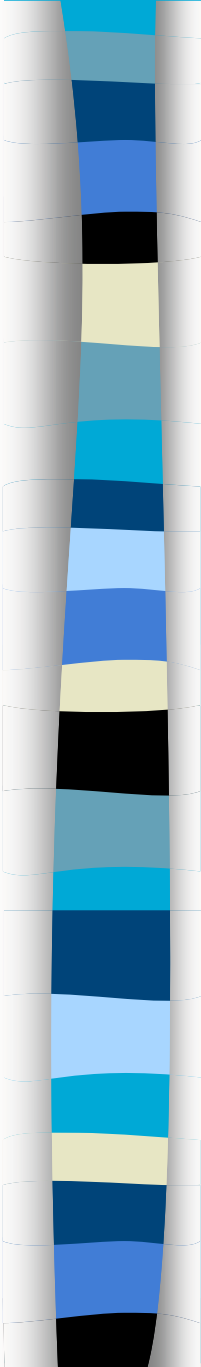


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## National Legislation – DREAM Act

### Requirements:

- Entered the U.S. before age 16
- Accepted into university or have earned high school diploma
- Has lived in the U.S. for at least 5 years
- Good moral character



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# **Undocumented Students in College**

## ***Jóvenes Inmigrantes por un Futuro Mejor***

### **Student chapters at:**

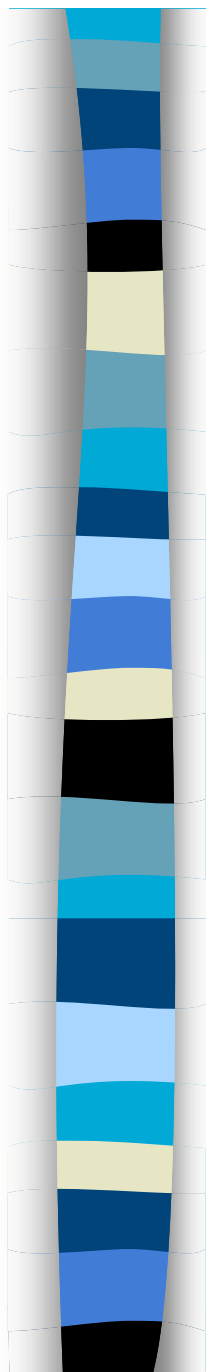
- **Lee High School–Houston Independent School District**
- **Prairie View A&M University (Incoming Fall 2006)**
- **Texas A&M University**
- **University of Houston-Downtown**
- **University of Houston-Central**
- **University of Texas at Arlington (Incoming Fall 2006)**

### **Purpose:**

**Advocate for Dream Act**

**Organize fellow undocumented students**

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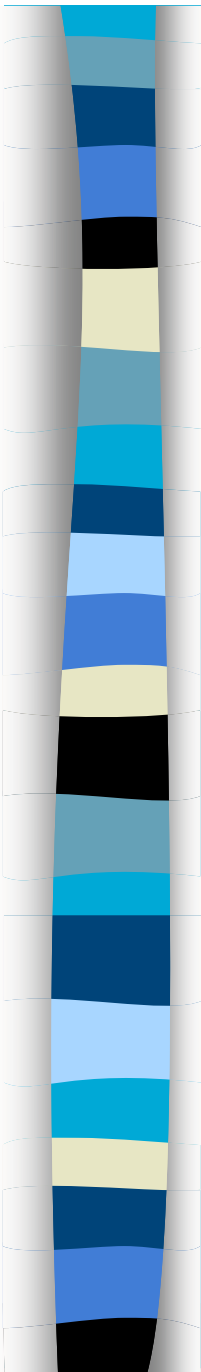


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## Resources

National Immigration Law Center

[www.nilc.org](http://www.nilc.org)

Young Immigrants for a Better Future

[www.uhjifm.org](http://www.uhjifm.org)

University Leadership Initiative

[www.criminaljusticecoalition.org/university\\_leadership](http://www.criminaljusticecoalition.org/university_leadership)

American Association of State Colleges & Universities

[www.aascu.org/policy/special\\_report/access\\_for\\_all.htm](http://www.aascu.org/policy/special_report/access_for_all.htm)

MALDEF

[www.maldef.org](http://www.maldef.org)

[www.maldef.org/education/scholarships.htm](http://www.maldef.org/education/scholarships.htm)

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