

HIGHER EDUCATION ACCESS AND SUCCESS for Undocumented Students Start With --- 9 KEY CRITERIA





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HIGHER EDUCATION ACCESS AND SUCCESS **for Undocumented** **Students Start With 9 KEY CRITERIA**

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Executive Summary

MORE THAN 427,000 UNDOCUMENTED STUDENTS ARE ENROLLED IN U.S. HIGHER EDUCATION INSTITUTIONS. That's an impressive number, considering the many hurdles they must overcome on the road to college and a degree, including restrictions on their ability to enroll in higher education institutions; limits on access to in-state tuition, state financial aid, professional and commercial licenses, driver's licenses, state health care, and food and housing assistance; and difficulties obtaining work authorization and employment — not to mention the threat of deportation they are under.

Although in recent years some states have lifted barriers to higher education for undocumented students — thanks in large part to their relentless activism — many undocumented students still have limited access to college and few ways to cover college costs.¹

In addition, the ongoing COVID-19 pandemic — which brought about economic hardship, sickness, and the loss of loved ones — has only made things tougher for many of these students.

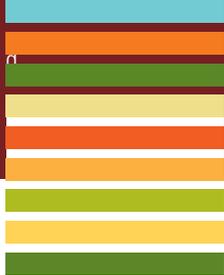
Some undocumented students in higher education are Deferred Action for Childhood Arrivals (DACA) recipients. Created by the Obama administration in 2012, DACA is a two-year renewable program that has protected eligible undocumented individuals from deportation and granted them work authorization.² But more than half of all undocumented students in higher education lack DACA protections: Only 182,000 undocumented higher education students are eligible for DACA or are current program recipients — and the latter are at risk of losing their status, given the legal challenges to the program.³ What's more, while DACA affords certain legal protections, as outlined above, DACA recipients still face many of the same hurdles to college access and success that undocumented students without DACA face.

Undocumented students, including DACA recipients, are ineligible for federal financial aid, and many states prohibit them from enrolling at local colleges and universities, receiving state financial aid, or qualifying for in-state tuition rates.

Providing equitable higher education access for undocumented students means making college accessible and affordable for them. But it also means acknowledging the unique challenges they face because of their immigration status and ensuring that they get the additional supports they need; it means acknowledging their diverse cultural backgrounds and strengths. Higher education is the key to achieving social and economic mobility in the U.S., so excluding undocumented students from higher education because of their immigration status is both inequitable and cruel.

With that in mind, researchers from The Education Trust analyzed 9 criteria in the 15 states with the largest shares of undocumented college students — Arizona, California, Colorado, Florida, Illinois, Georgia, Maryland, Massachusetts, Nevada, New Jersey, New York, North Carolina, Texas, Virginia, and Washington — to determine whether state policies are helping or hurting undocumented students' ability to attend college and how access and success for this underserved student population could be improved:⁴

- 1.** Can undocumented students enroll in the state's public two- and four-year higher education institutions?
- 2.** Do undocumented students have access to in-state resident tuition?
- 3.** Do undocumented students have access to state financial aid?
- 4.** Do undocumented students have access to professional or commercial licenses?
- 5.** Do undocumented students have access to a driver's license?
- 6.** Do undocumented students have access to state-level health care programs?
- 7.** Do undocumented students have access to state-level food programs?
- 8.** Do undocumented students have access to state-level housing assistance?
- 9.** Does the state have sanctuary policies limiting collaboration between local entities and federal immigration authorities?⁵



Here's what we found:

- Of the 15 states we examined, 13 allow all undocumented students — including DACA recipients — to enroll in two- and four-year state public higher education institutions. One state limits undocumented student enrollment to those with a diploma from a U.S. high school, and another prohibits undocumented students from enrolling in many of the state's public four-year universities and state colleges.
- Five states restrict or prohibit undocumented students from receiving state financial aid, and two states make undocumented students pay out-of-state-resident tuition rates.
- Eight states prohibit or do not affirmatively allow undocumented students to access professional/commercial licenses, and two states limit professional/commercial licenses to DACA recipients and allow them to obtain only certain types of licenses. Five states allow all undocumented individuals to access a wide range of licenses.
- Nine states grant all undocumented individuals in their states access to driver's licenses, while six states limit driver's-license eligibility to undocumented individuals who are DACA recipients.
- Twelve states prohibit undocumented students from accessing their state's Medicaid program; three provide state Medicaid access to students within a certain age range and with DACA status.
- Seven states deny access to state-funded housing assistance for all undocumented students, and seven states provide access to all undocumented students in their state. One state provides limited state-funded housing assistance to undocumented individuals, depending on the circumstances and level of hardship they are experiencing.
- Due to federal funding restrictions and guidelines for state-funded food-assistance programs, undocumented students are **not** eligible for state-funded food-assistance benefits in any of the 15 states we examined.
- Nine states have at least one state policy that limits local cooperation with federal immigration authorities to identify, detain, or deport undocumented individuals.

[Additionally, this online tool details our findings and highlights the barriers that should be lifted in each of the 15 states.](#)

Given these findings, we urge state and federal policymakers to make it easier for undocumented students to access, afford, and succeed in higher education.

Here are 11 steps state policymakers can take:

- 1.** Expand state public benefits (including higher education, professional/commercial licenses, state Medicaid, housing, food assistance) to all undocumented individuals.
- 2.** Submit Affordable Care Act (ACA) Section 1332 waivers to the U.S. Department of Health and Human Services (HHS) and the U.S. Department of the Treasury to allow undocumented individuals — including DACA recipients — to purchase health and dental insurance through the ACA marketplace.⁶
- 3.** Ensure that enrollment in state higher education institutions is open to undocumented individuals — those with and without DACA, and those who do and do not reside in state.
- 4.** Make in-state tuition available to all undocumented state residents — those with and without DACA.
- 5.** Make all forms of state financial aid — including free college programs — available to all undocumented residents, those with and without DACA.
- 6.** Make state driver's licenses and ID cards available to all undocumented students — those with and without DACA — and prohibit the use of undocumented individuals' personal data for anything other than the receipt of a license or ID card.
- 7.** End/prohibit local cooperation with federal immigration authorities.
- 8.** Annually appropriate funds to higher education institutions that enroll undocumented students and ensure that those funds are used to support undocumented students.
- 9.** Ensure that state higher education institutions provide alternatives to employment for undocumented students without work authorization through the creation or expansion of fellowships, entrepreneurship programming, and support for worker cooperative businesses led by undocumented students or graduates.⁷
- 10.** Require P-12 educators to receive training on how best to support undocumented students and their families in their local school districts.⁸
- 11.** Require faculty and staff at higher education institutions to receive instruction on the best way to support undocumented students, and require institutions to hire an undocumented student resource liaison.

Here are **9 steps** federal policymakers can take:

- 1.** Enact a pathway to citizenship for all undocumented individuals, including DACA recipients.
- 2.** Repeal [20 U.S.C. 1091\(a\)\(5\)](#) of the Higher Education Act to make all undocumented students eligible for federal financial aid.
- 3.** Repeal Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which states that undocumented students cannot receive higher education benefits based solely on in-state residency if U.S. citizen students who are not state residents are not offered these benefits.
- 4.** Repeal [8 U.S.C. § 1611](#) and [8 U.S.C. § 1621](#) of the Personal Responsibility and Work Opportunity Responsibility Act, which prohibits undocumented individuals from accessing federal and state public benefits, including higher education benefits, and professional or commercial licenses.
- 5.** HHS should make DACA recipients eligible for the ACA marketplace through broad regulation and approve ACA Section 1332 waivers from states that submit them.
- 6.** Enact federal legislation prohibiting the federal government and states from denying professional or commercial licenses to undocumented individuals and allow work authorization for undocumented individuals who receive a professional or commercial license.
- 7.** Enact federal legislation prohibiting discrimination for any state higher education benefit based on an individual's immigration status.
- 8.** The U.S. Department of Education should provide guidance for all U.S. higher education institutions on classifying all undocumented students as "domestic students" rather than "international students."⁹
- 9.** The U.S. Department of Homeland Security should reallocate funds to provide fee waivers to DACA recipients in need.¹⁰



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Introduction

One in every 50 students in higher education is undocumented,¹ and most of them are undergraduates.² Eighty percent of undocumented students attend public institutions, and they are a diverse group: 49% are Latino, 24% are Asian American and Pacific Islander, and 13% are Black.³

Their prevalence at universities is extraordinary, given the many racist and xenophobic federal and state policies that make it difficult for them to pursue a higher education.

The Higher Education Act (HEA) of 1965, for instance, requires federal financial-aid applicants to be U.S. citizens or permanent residents. This means that undocumented students — those with and without Deferred Action for Child Arrivals (DACA) — can't access Pell Grants, work-study, or federal student loans.

Depending on where they reside, they also may have limited access to state postsecondary education benefits — such as in-state resident tuition and state financial aid. Under the Personal Responsibility and Work Opportunity Responsibility Act (PRWORA) of 1996, undocumented individuals are ineligible for several state and federal public benefits — including many health care, housing, welfare, unemployment, and retirement programs; professional and commercial licenses; and postsecondary education benefits. PRWORA bars undocumented people from obtaining any professional or commercial license and any postsecondary education benefit at the state level, **unless** a state passes a law affirming their eligibility. In other words, PRWORA lets states decide whether to make it harder or easier for undocumented students to access higher education and succeed. Further, Section 505 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 prevents undocumented students from receiving higher education benefits solely based on in-state residency, unless U.S. citizens or nationals (who are not in-state residents) also receive said benefit.⁴

Less than half of all undocumented students in higher education are recipients of or eligible for DACA,⁵ a two-year renewable program⁶ established by the Obama administration in 2012 to protect qualified undocumented youths — who were brought to the U.S. as children — from deportation and grant them work authorization. (See sidebar “The Current State of DACA.”) Undocumented students without DACA can't obtain a work permit; and being unable to work or get federal and state financial aid severely limits their ability to finance their postsecondary education. These students also face additional barriers in states where access to postsecondary benefits is restricted to DACA recipients.

Many current undocumented students are, in fact, eligible for DACA but can't apply as first-time DACA applicants because new applications are on pause due to ongoing legal challenges to the program. Meanwhile, under DACA's current eligibility criteria — which have not been updated — only individuals who have continuously resided in the U.S. since June 15, 2007, can apply, even though most of today's incoming undocumented college students came to the U.S. after this date. The majority of undocumented students from the graduating high school class of 2022, for example, are ineligible for DACA because they entered the country after the cutoff date.⁷

“Undocumented students without DACA can't obtain a work permit; and being unable to work or get federal and state financial aid severely limits their ability to finance their postsecondary education. These students also face additional barriers in states where access to postsecondary benefits is restricted to DACA recipients.”

These and other federal and state policy barriers mean that the estimated 98,000 undocumented students who graduate annually from U.S. high schools face uncertain prospects.⁸ While policies on higher education access for undocumented students vary widely across all 50 states, many of these policies pose significant barriers for undocumented students, who, along with their supporters and K-16 educators, often struggle to navigate the complex web of rules to access higher education. It doesn't have to be that way, and it should not be that way.

The benefits of giving all undocumented individuals, those with and without DACA, access to a higher education as well as to federal and state public benefits and citizenship would be significant — not only for the students themselves but also for states and the nation. Undocumented individuals with a higher education are more likely than the average U.S. resident to be in their prime working years, which means they have an outsize impact on our GDP and economy. Ninety-six percent of undocumented individuals and 93%⁹ of DACA-eligible individuals were employed in 2018.¹⁰ Undocumented individuals contributed \$20 billion in federal taxes and \$12 billion in state and local taxes in 2018 alone, and they possess \$218 billion in annual purchasing power.¹¹ What's more, a recent Center for American Progress report estimates that providing a pathway to citizenship for all undocumented individuals in the U.S. would boost U.S. GDP by a cumulative total of \$1.7 trillion over 10 years and create 438,800 new jobs.¹² Our economy needs more workers with a higher education, and U.S. employers increasingly require workers to have one or more higher education credentials. Those needs won't be met unless we ensure that undocumented students can access and afford a higher education and get the support they need to succeed.



THE CURRENT STATE OF DACA AND THE NEED FOR A PATHWAY TO CITIZENSHIP

Since 2017, the constitutionality of DACA has been repeatedly challenged in the courts. A July 2021 ruling by Texas District Court Judge Andrew S. Hanen that declared the program “unlawful” was recently upheld by the U.S. Fifth Circuit Court of Appeals.¹³ The case was sent back to the Texas district court to determine the lawfulness of the Biden administration’s rule, which aims to preserve and codify DACA and was published on August 30, 2022. Unlike the original memorandum that created DACA, the Biden administration’s rule followed the formal rulemaking process, which requires public notice and comment.¹⁴ The new rule was set to go into effect on October 31, 2022, but is on hold pending a final decision by Judge Hanen.¹⁵ If the program is terminated, the Biden administration will file an appeal with the U.S. Supreme Court.¹⁶

For now, current beneficiaries will retain their DACA status, and DACA renewal applications will be accepted. But no new applications will be processed, leaving the lives of many undocumented students in limbo. The legal challenges to DACA have serious implications for undocumented students and their ability to access and afford a higher education and graduate from college.

DACA has had a resounding impact on recipients and their communities. A 2021 national survey found that DACA recipients have stronger employment, educational, and economic prospects than nonrecipients. After receiving DACA, almost half of the respondents noted that their average hourly wage more than doubled, 43% of the respondents were able to secure a job with health insurance or other benefits, and 13% were able to obtain professional licenses.¹⁷ Sixty-three percent of the respondents reported that their increased earnings have allowed them to help their families financially, and 52% said that their increased earnings have helped them pay for tuition.¹⁸

Given DACA’s widespread positive impact on recipients, their communities, and the larger U.S. economy, we encourage Congress to forge a pathway to citizenship for undocumented individuals. Congress can and should permanently protect current recipients of DACA and expand its benefits to those not currently eligible for the program by giving undocumented individuals a pathway to citizenship or expanding/reopening DACA. In the meantime, however, federal and state policymakers have a responsibility to implement policies beyond DACA that support undocumented students and ensure that current and future undocumented students can access, succeed, and thrive in college.

An Equity Analysis of State Policies for Undocumented Students

The aim of this report is to equip higher education policymakers and immigration reform and civil rights advocates with 9 key criteria for expanding higher education access and success to undocumented students. These criteria seek to broaden equity, access, and affordability for **all** undocumented students — regardless of their eligibility for DACA. (See Figure 1 for explanation of key criteria.)

- 1.** Can undocumented students enroll in the state’s public two- and four-year higher education institutions?
- 2.** Do undocumented students have access to in-state resident tuition?
- 3.** Do undocumented students have access to state financial aid?
- 4.** Do undocumented students have access to professional or commercial licenses?
- 5.** Do undocumented students have access to a driver’s license?
- 6.** Do undocumented students have access to state-level health care programs?
- 7.** Do undocumented students have access to state-level food programs?
- 8.** Do undocumented students have access to state-level housing assistance?
- 9.** Does the state have sanctuary policies limiting collaboration between local entities and federal immigration authorities? (See Figure 1.)

We analyzed these criteria in the 15 U.S. states with the largest shares of undocumented students: Arizona, California, Colorado, Florida, Illinois, Georgia, Maryland, Massachusetts, Nevada, New Jersey, New York, North Carolina, Texas, Virginia, and Washington.¹⁹ About 78% of all undocumented students in the country reside in these states. Findings are listed by state in this [online tool](#).

FIGURE 1: 9 KEY CRITERIA FOR HIGHER EDUCATION ACCESS AND SUCCESS FOR UNDOCUMENTED STUDENTS

Key Criteria	Explanation
1. Higher education enrollment access	<p>Per <i>Equal Access Education v. Merten</i>, federal law allows states to regulate admission to public postsecondary institutions. Some states explicitly prohibit undocumented students from enrolling in any public higher education institution.</p>
2. In-state resident tuition	<p>Most states have residency requirements that college students must meet to qualify for in-state resident tuition rates. In addition, some states may require U.S. citizenship, permanent residency, or other legal status to be eligible for in-state tuition. Many undocumented students have resided in their respective states for most of their lives. They meet state residency requirements, but their immigration status disqualifies them.</p>
3. State financial aid	<p>Most states have residency requirements that college students must meet to qualify for state financial aid. In addition, some states may require U.S. citizenship, permanent residency, or other legal status to be eligible for state financial aid. Many undocumented students have resided in their respective states for most of their lives. These students meet state residency requirements, but their immigration status disqualifies them.</p>
4. Eligibility for a professional or commercial license	<p>Nearly a quarter of all jobs in the U.S. require workers to have a professional or commercial license; however, many states restrict who can obtain a professional or commercial license by requiring that applicants be U.S. citizens, be permanent residents, or have work authorization. Therefore, undocumented students can be shut out of their chosen career due to state professional or commercial license requirements.</p>
5. Eligibility for a driver's license	<p>States regulate who can get a driver's license. Unfortunately, some states bar undocumented individuals from obtaining a driver's license, thereby limiting their transportation options to get to and from school and/or work.</p>

FIGURE 1: CONTINUED

Key Criteria	Explanation
<p>6. State-level health care assistance</p>	<p>Undocumented individuals (DACA recipients and nonrecipients alike) can't purchase health care coverage through the Affordable Care Act (ACA) marketplace. Undocumented individuals without DACA also rarely have access to employer-sponsored health insurance. As a result, 4 in 10 undocumented individuals in the U.S. are uninsured.²⁰</p> <p>While some undocumented students have access to campus health insurance, coverage varies by higher education institution. States can widen access to care by expanding eligibility requirements for state health care programs like Medicaid to include undocumented individuals.</p>
<p>7. State-level food assistance</p>	<p>People need food to thrive, but many undocumented students struggle to get enough to eat. Having access to basic-needs support, like food assistance, is therefore a must. Unfortunately, undocumented individuals are ineligible for the federal Supplemental Nutrition Assistance Program (SNAP), although some states offer state-funded food-assistance programs to some immigrant households that are ineligible for SNAP due to the passage of PRWORA. These programs primarily provide food assistance to individuals with legal permanent resident status²¹ and use federal food stamps to help fund the programs.²² However, federal guidelines for the use of these federal funds make undocumented individuals ineligible for these state-funded food-assistance programs.</p>
<p>8. State-level housing assistance</p>	<p>Undocumented students have a hard time accessing affordable housing. As sole applicants, most undocumented students are ineligible for federal housing-assistance programs — including public housing, Housing Choice Vouchers, Section 8 project-based rental assistance, and rural rental assistance. Undocumented students who live in a family household where the applicant is eligible for federal housing assistance may be able to benefit, depending on the program. States, however, have the power to expand their state-funded housing-assistance program eligibility criteria to make undocumented individuals eligible for services.</p>
<p>9. State sanctuary policies</p>	<p>Undocumented students are under constant threat of deportation. But states, universities, and other jurisdictions can put sanctuary policies in place to protect undocumented students and their families. Over the past couple of years, many states, counties, cities, and educational institutions have adopted “sanctuary” policies that limit or prohibit cooperation with federal immigration authorities in identifying, detaining, and/or deporting undocumented individuals.²³</p>

Except for sanctuary policies, we categorized state policies as providing (a) comprehensive access, (b) limited access, or (c) prohibitive access — that is, **no** access — to undocumented students. We define each of these categories in our findings. Lastly, we categorized state sanctuary policies as (a) limiting collaboration between local entities and federal immigration authorities, or (b) allowing collaboration.

Information on the eligibility of undocumented individuals for the criterion 1 was gathered from the [National Immigration Law Center Map on State Laws & Policies on Access to Higher Education for Immigrants](#).²⁴ Information for criteria 2 through 5 was gathered from the [Presidents' Alliance for Higher Education and Immigration, Higher Ed Immigration Portal](#).²⁵ We obtained information for criteria 6 through 8 by contacting health, housing, and food assistance agencies in each state. Lastly, information for criterion 9 was gathered from the [National Conference of State Legislatures \(NCSL\) Immigration Laws and Current State Immigration Legislation Database](#),²⁶ and we confirmed this information with immigration advocacy agencies in each state.

Key Findings

1. Higher Education Enrollment Access

Federal law allows states to dictate which students can enroll in public colleges and universities, and some states deny or limit access to public higher education for undocumented students. As a result, many undocumented students who would otherwise be college bound can't go. Access to public education— including to a public **higher** education — is central to opportunity, social mobility, and building a more equitable society. Higher education should be open to everyone — regardless of race, ethnicity, or immigration status. Any restrictions or prohibitions on enrollment, even those limited to certain state institutions, violate that ideal and leave undocumented students with less access to academic programs and colleges than their peers.

Of the 15 states that we scanned, 13 provide unrestricted enrollment access to all undocumented students, regardless of DACA status. One state provides limited enrollment access to all undocumented students, and another state prohibits all undocumented students from attending most state public higher education institutions.

Georgia has the most restrictive policy toward undocumented students. In 2011, the Georgia Board of Regents implemented policy 4.1.6, which bars all 26 public four-year universities and state colleges from admitting undocumented students — including DACA recipients — unless the institution in question has admitted **all** academically qualified students in the past two academic years, except for cases in which qualified students were rejected for nonacademic reasons.²⁷ It should be noted that colleges and universities rarely admit **all** academically qualified students. Two of the five most selective universities in Georgia challenged this law in 2016 after a lawsuit was filed by the Mexican American Legal Defense and Education Fund on behalf of three DACA recipients.²⁸ But a federal appeals court upheld the Board of Regents' policy in March 2019. However, Augusta University and Georgia State, upon determining that they had accepted all academically qualified applicants in the prior two years, began admitting undocumented students in 2016.²⁹ Undocumented students — including DACA recipients — are still effectively barred from the state's three remaining selective universities — Georgia Institute of Technology, Georgia College & State University, and the University of Georgia — as well as the state's remaining public four-year universities and state colleges.³⁰

In North Carolina, undocumented students with a diploma from a U.S. high school can technically attend any public four-year or two-year college in the state.³¹ However, two-year enrollment is severely limited. Undocumented students with a GED are **not** eligible for admission to the community college system.³² What's more, community colleges can't enroll undocumented students in classes or programs of study for which there is a waiting list³³ and must also wait until the late registration period to enroll undocumented students in classes.³⁴

TABLE 1: ENROLLMENT ACCESS FOR UNDOCUMENTED STUDENTS IN THE 15 STATES WITH THE MOST UNDOCUMENTED STUDENTS IN HIGHER EDUCATION

Arizona	California	Colorado	Florida	Georgia
Illinois	Maryland	Massachusetts	Nevada	New Jersey
New York	North Carolina	Texas	Virginia	Washington



13 COMPREHENSIVE ACCESS



1 LIMITED ACCESS



1 PROHIBITIVE ACCESS

Source: National Immigration Law Center (NILC), *Map on State Laws & Policies on Access to Higher Education for Immigrants*.



2. In-State Resident Tuition

For those with access to college, cost is often the biggest constraint.

Funding for state institutions is partially generated through tax dollars paid by state residents.³⁵ For that reason, state residents can typically attend a local public college or university for a lot less than nonresidents. Out-of-state tuition rates vary, but they're often two or three times higher than in-state rates. To qualify for in-state resident tuition rates, many states require proof that an individual has lived in the state for at least one year.

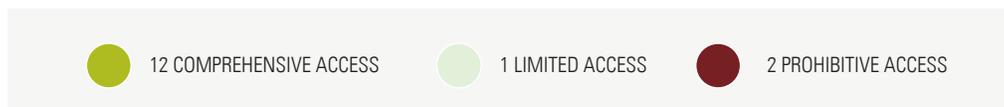
Because of their immigration status, many undocumented students aren't eligible for in-state rates — even if they grew up and went to school in the state — and often wind up paying more out of pocket for tuition than their in-state peers who are U.S. citizens or permanent residents. College is expensive. The average annual out-of-state tuition for an undergraduate degree at a public four-year institution in the U.S. is **\$26,382**; the average in-state tuition for the same degree is **\$9,212**.³⁶ And those are just averages; tuition at many institutions is substantially higher. Those figures also don't include other costs of college attendance — like room and board, books and supplies, and transportation — which can easily double the overall expense.

To make matters worse, our analysis shows that states that offer in-state tuition to undocumented students place more requirements on those students than on their peers who are U.S. citizens and permanent residents. For example, in Maryland, undocumented students must have attended a high school in the state for at least three years and provide proof that they or their parent or legal guardian filed state income tax returns for those years.³⁷ This requirement is a barrier for some undocumented students — particularly if they or their parents lack a Social Security number (SSN) or an individual tax identification number, which is needed to file taxes.

Of the 15 states we scanned, 12 provide unrestricted access to in-state resident tuition for all undocumented students — provided they meet state-specific eligibility requirements. One state offers limited access to in-state resident tuition for all undocumented students; two states prohibit all undocumented students from accessing in-state resident tuition.

TABLE 2: IN-STATE RESIDENT TUITION ACCESS FOR UNDOCUMENTED STUDENTS IN THE 15 STATES WITH THE MOST UNDOCUMENTED STUDENTS IN HIGHER EDUCATION

Arizona	California	Colorado	Florida	Georgia
Illinois	Maryland	Massachusetts	Nevada	New Jersey
New York	North Carolina	Texas	Virginia	Washington



Source: Presidents' Alliance on Higher Education and Immigration, Higher Education Immigration Portal



3. State Financial Aid

All 50 U.S. states offer financial assistance to state residents to reduce their out-of-pocket higher education costs.³⁸ Financial aid can take the form of state grants, scholarships, and loans. It's typically, though not always, reserved for state residents attending a state college, and eligibility requirements vary by state.

State financial aid is crucial for undocumented students because they are not eligible for federal financial aid, are often required to pay out-of-state tuition rates in their states of residence, and have limited employment opportunities because of their immigration status. A previous Ed Trust [analysis](#) of college affordability for undocumented students found that, on average, in states where undocumented students are expected to pay in-state tuition and receive state financial aid, they would have to work 29 hours a week to attend a public community or technical college and 48 hours a week to attend a public four-year university and live off campus.³⁹ In states where undocumented students are expected to pay out-of-state tuition and receive no state financial aid, an undocumented student enrolled at a public community or technical college would need to work more than 35 hours a week, on average.⁴⁰ At a four-year public college, said student would have to work 85 hours per week if they lived on campus and 62 hours per week if they lived off campus. That's not a viable option for most students, let alone for undocumented students, who not only face multiple financial, logistical, and structural hurdles but often have additional family responsibilities. State financial aid can be transformative for these students, especially when it comes in the form of scholarships or grants, which need not be repaid.

Access to state financial aid also has a positive impact on undocumented students' higher education participation rates. States that offered financial aid to undocumented students saw an increase in the proportion of undocumented students enrolled in college, especially among men aged 21 to 24.⁴¹ After the passage of the California DREAM Act, which extends multiple forms of state financial aid to undocumented students in the state, the average number of college units attempted and completed by undocumented students increased.⁴² As such, the impact of providing comprehensive access to state financial aid for all undocumented students across the nation would be transformative for U.S. higher education enrollment and attainment.

Our scan of state financial aid policies across 15 states examined whether all undocumented students — DACA recipients and nonrecipients alike — can access all forms of state financial aid outside of state free college programs.

Of the 15 states, 10 provide comprehensive access to state financial aid for undocumented students. These 10 states let all undocumented students — including DACA recipients — access all forms of state financial aid. Two of the 15 states offer limited state financial aid access to all undocumented students — in other words, undocumented students may access some but not all forms of state financial aid. Three of the 15 states prohibit all undocumented students from accessing all forms of state financial aid.

“State financial aid is crucial for undocumented students because they are not eligible for federal financial aid, are often required to pay out-of-state tuition rates in their states of residence, and have limited employment opportunities because of their immigration status.”

The 10 states that provide comprehensive state financial aid access for undocumented students have similar eligibility requirements. For example, eight of them require undocumented students to meet the requirements outlined for in-state tuition to be eligible for state financial aid.

California and Washington State offer state loan programs to help undocumented students — who can't get federal student loans — finance their education. Since the 2015-16 academic year, undocumented undergraduate and graduate students at participating University of California (UC) or California State University (CSU) campuses have been able to get a loan via the California DREAM Loan Program, provided they meet certain eligibility requirements.⁴³ In July 2021, Washington State established a “state-funded and state-administered” student loan program for undocumented students.⁴⁴

Three states offer in-state tuition to undocumented students but do not provide state financial aid to them. In Florida, undocumented students are eligible for in-state tuition if they meet certain eligibility requirements, but they are **not** eligible for state financial aid. In Arizona, undocumented students are eligible for in-state tuition — and they may access some state-funded scholarships — but not all forms of state financial aid. In Massachusetts, only undocumented students who have DACA or Temporary Protected Status (TPS) are eligible for in-state tuition, but DACA and TPS recipients may access only a single scholarship program, not all forms of state financial aid. This is a barrier for many incoming undocumented college students, who can't qualify for DACA under the current pause on new DACA applications and cutoff dates for DACA eligibility, which require eligible individuals to have continuously resided in the U.S. from June 15, 2007, to the present.⁴⁵ Most of today's incoming undocumented college students entered the U.S. after this date.⁴⁶ Such state policies purport to expand higher education access for undocumented students, but the fine print suggests otherwise. It's essential that undocumented students have access to in-state tuition and all available forms of state financial aid, given the host of other financial barriers and challenges these students already face.

TABLE 3: STATE FINANCIAL AID ACCESS FOR UNDOCUMENTED STUDENTS IN THE 15 STATES WITH THE MOST UNDOCUMENTED STUDENTS IN HIGHER EDUCATION

Arizona	California	Colorado	Florida	Georgia
Illinois	Maryland	Massachusetts	Nevada	New Jersey
New York	North Carolina	Texas	Virginia	Washington



10 COMPREHENSIVE ACCESS



2 LIMITED ACCESS



3 PROHIBITIVE ACCESS

Source: Presidents' Alliance on Higher Education and Immigration, Higher Education Immigration Portal

4. Eligibility for Professional/Commercial Licenses

Over the past 60 years, the [number](#) of jobs requiring a professional/commercial license increased from approximately 1 in 20 to nearly 1 in 4.⁴⁷ Having a license is also often a prerequisite to practice certain professions or trades, including teaching, nursing, law, and counseling.

Undocumented students who defy the odds and begin studying and training for a professional career may not realize until after graduation that there are state policies barring them from obtaining professional/commercial licenses. It's not uncommon for states to require applicants seeking a license to provide an SSN. This is a barrier for some undocumented individuals, because while DACA recipients are eligible for Social Security cards, those without DACA can't obtain one, and no new DACA applications are being processed at this time.⁴⁸ What's more, even if an undocumented student manages to acquire a professional/commercial license in their state, they might still be barred from practicing their profession, unless they have DACA, which grants them work authorization.

We looked at whether all undocumented students — including DACA recipients — can access professional/commercial licenses in the 15 states in our sample. It should be noted that many of the state policies we examined explicitly mention access to **certain** professional/commercial licenses but **not** all existing professional/commercial licenses. Special attention was paid to whether undocumented individuals are eligible for nursing⁴⁹ and teaching⁵⁰ licenses under the state policies we reviewed, given the high demand for workers in these professions, especially amid the ongoing pandemic.

Eight of the 15 states in our analysis do not affirmatively extend professional/commercial licenses to all undocumented individuals. Two of the 15 states provide limited access to professional/commercial licenses to **all** undocumented individuals or have state policies that restrict eligibility to **some** undocumented individuals (e.g., only DACA recipients), or allow undocumented individuals to access only certain occupational licenses (e.g., in Florida, undocumented individuals can be licensed as lawyers but not as teachers). Five states offer comprehensive access to undocumented individuals, allowing all undocumented individuals to access a wide range of licenses.

Among those states that provide comprehensive access to professional/commercial licenses for undocumented students, many have similar eligibility requirements. For example, 4 states let undocumented individuals use an Individual Taxpayer Identification Number (ITIN) in place of an SSN on professional license applications. ITINs are issued by the Internal Revenue Service (IRS) for tax-processing purposes and are available only to individuals who can't obtain an SSN.⁵¹ Additionally, all the states that provide comprehensive licensure access permit undocumented individuals to apply for nursing and teaching licenses.

California stands out when it comes to providing comprehensive access to professional licenses and has passed various pieces of legislation expanding the types of licenses undocumented individuals can obtain. For example, SB 788 allows professions

“Undocumented students who defy the odds and begin studying and training for a professional career may not realize until after graduation that there are state policies barring them from obtaining professional/commercial licenses.”

licensed by the California Department of Insurance to be open to all undocumented individuals.⁵² This includes professions such as automobile insurance agents and property brokers. AB 2184 lets undocumented individuals get a business license.⁵³ SB 695 requires the California Department of Public Health to accept ITINs in certification applications.⁵⁴

TABLE 4: PROFESSIONAL/COMMERCIAL LICENSE ACCESS FOR UNDOCUMENTED STUDENTS IN THE 15 STATES WITH THE MOST UNDOCUMENTED STUDENTS IN HIGHER EDUCATION

Arizona	California	Colorado	Florida	Georgia
Illinois	Maryland	Massachusetts	Nevada	New Jersey
New York	North Carolina	Texas	Virginia	Washington



5 COMPREHENSIVE ACCESS



2 LIMITED ACCESS



8 PROHIBITIVE ACCESS

Source: Presidents' Alliance on Higher Education and Immigration, Higher Education Immigration Portal

State policymakers seeking to expand access to professional/commercial licenses for undocumented students must eliminate citizenship and immigration status requirements for licensure. Given the rising demand for more nurses⁵⁵ and teachers,⁵⁶ extending to undocumented individuals access to these professions would help strengthen the workforce and reduce critical shortages.



5. Driver's License Eligibility

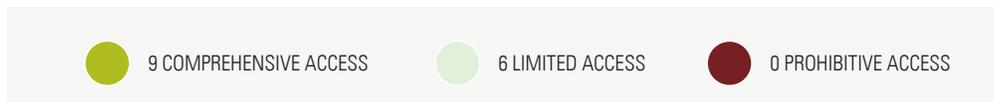
Having reliable transportation is crucial for academic success in college. It's also a necessity for daily living activities — like going to the store to buy food or to a hospital when someone is sick or injured. Unfortunately, many places in the U.S. lack adequate public transportation. More than 85% of today's college students commute from their homes to college campuses, and, for many of them, driving is the only viable way to get to campus and classes on time.⁵⁷ All 50 states, however, require drivers to have a license to operate a motorized vehicle; it's also an important form of identification.

To get a driver's license, a person typically must provide their SSN. This is a hurdle for undocumented individuals without DACA, who, as previously noted, are ineligible for an SSN. Of the 15 states we examined, 9 provide comprehensive access to a driver's license for undocumented people, meaning that all undocumented individuals — including DACA recipients — can apply for one. The remaining six states restrict access to DACA recipients only.

The requirements for securing a driver's license are relatively similar in the 15 states we examined. In Colorado, Maryland, and Virginia, for example, individuals must show that they've filed state taxes to apply for a license. California, Colorado, Illinois, Nevada, and New York require applicants to provide proof of identity; acceptable documents include a valid unexpired consular identification document issued by a consulate from the applicant's country of citizenship or a valid unexpired passport from the applicant's country of citizenship. Most driver's licenses issued to undocumented individuals look a little different than those issued to U.S. citizens or permanent residents and are not a valid form of federal identification or REAL ID compliant.

TABLE 5: DRIVER'S LICENSE ACCESS FOR UNDOCUMENTED STUDENTS IN THE 15 STATES WITH THE MOST UNDOCUMENTED STUDENTS IN HIGHER EDUCATION

Arizona	California	Colorado	Florida	Georgia
Illinois	Maryland	Massachusetts	Nevada	New Jersey
New York	North Carolina	Texas	Virginia	Washington



Source: Presidents' Alliance on Higher Education and Immigration, Higher Education Immigration Portal

Protecting the privacy of undocumented individuals who apply for and receive driver's licenses is paramount. It's important that states not share personal information about undocumented individuals who apply for driver's licenses with federal immigration authorities. California, New Jersey, and New York have laws ensuring the confidentiality of undocumented individuals who apply for and obtain a driver's license. California's AB 60 law states that information provided to obtain a driver's license cannot be used as evidence of citizenship or immigration status or as the basis for criminal investigation, arrest, or detention.⁵⁸ According to New Jersey law, the information collected to obtain a driver's license is confidential and not a part of the government record. The license holder's consent or a court order is required before turning over documents

related to immigration enforcement.⁵⁹ In New York, the Driver's License Access and Privacy Act prevents the Department of Motor Vehicles (DMV) from sharing information with agencies that primarily enforce immigration laws. The law also requires the license holder to be notified when immigration enforcement agencies request information from the DMV.⁶⁰ Unfortunately, in practice, such laws don't always ensure that an undocumented individual's information will be protected or that an agency won't use it to target them for deportation. States that allow undocumented individuals to get a driver's license must do more to ensure that their information won't be used in a harmful way.

State-Level Supports for Basic Needs

Support for basic needs, including but not limited to food, housing, and health care, is crucial not only to the academic success of undocumented students but also to their general well-being and survival, especially amid the pandemic. Although more research is needed to assess the needs of undocumented students in higher education, we know that they are more likely to face food and housing insecurity and lack health insurance because of their immigration status and lack of access to resources and other supports. A December 2020 study of nearly 1,300 undocumented undergraduate students at the UC and CSU systems found that an overwhelming number of these students have basic-needs insecurity: 59% of respondents said they'd experienced food insecurity, 53% said they use the campus basic-needs/food pantry, and a third visit it at least once a week.⁶¹ Twenty-eight percent of the respondents also reported poor or fair health — a rate nearly three times higher than that reported in a 2007 national survey of young adults.⁶² Thirty-one percent of the students surveyed in 2020 said they had experienced one or more mental health problems that warranted clinical treatment.⁶³

While many college students experiencing basic-needs insecurity can seek institutional, federal, or state-sponsored assistance, undocumented students are ineligible for most public benefits, thanks to the PRWORA of 1996. SNAP benefits, for example, which help eligible individuals buy more food, are largely reserved for U.S. citizens, permanent residents, and certain students in higher education who meet one of a few exemptions. Additionally, Section 214 of the Housing and Community Development Act of 1980 excludes undocumented individuals from public and specified assisted-housing programs provided by the U.S. Department of Housing and Urban Development — including most federal rental-assistance programs, public housing, Housing Choice Vouchers, Section 8 project-based rental assistance, and rural rental assistance.⁶⁴

“While many college students experiencing basic-needs insecurity can seek institutional, federal, or state-sponsored assistance, undocumented students are ineligible for most public benefits.”

6. State Health Care Assistance: Medicaid, CHIP, and Federally Qualified Health Centers

Federal public benefits are off limits to undocumented individuals and while some undocumented students have access to campus health insurance, coverage varies by higher education institution; however, they may qualify for state benefits such as state-funded health care, housing, and food assistance, depending on state policy. Because Medicaid — which provides health coverage to millions of Americans and eligible adults from low-income backgrounds — is co-funded by states and the federal government, states can set their own program eligibility requirements.⁶⁵ Unfortunately, just three of the 15 states we examined offer state Medicaid access to small subsets of the undocumented community — that is, those within a certain age range and those with DACA. Most states — 12 of 15 — prohibit all undocumented individuals from accessing state Medicaid.

Undocumented women who are pregnant may qualify for prenatal care coverage if the state in which they reside opts into the “unborn child option” of the Children’s Health Insurance Program (CHIP),⁶⁶ a federally funded initiative that provides low-cost health insurance to children in families that earn too much to qualify for Medicaid but not enough to afford private insurance.⁶⁷ Under this option, the unborn child, rather than the pregnant person, is technically the recipient of CHIP-funded services. As a result, the scope of available services may be limited to those directly related to the health of the unborn child.⁶⁸ Only six of the 15 states in our analysis have opted into this program; the other nine don’t offer prenatal coverage to undocumented pregnant people.

In certain states, undocumented individuals may be able to access low-cost medical care through certain Federally Qualified Health Centers (FQHCs), often called community health centers.⁶⁹ These centers generally provide primary-care access to patients in underserved communities — regardless of their ability to pay, insurance status, or immigration status⁷⁰ — and are jointly funded by states and the federal government.⁷¹ Over half of all 50 U.S. states provide some level of direct funding for health centers. Some allocate funds to FQHCs specifically to ensure that undocumented communities have access to health care.⁷² In New York, for example, FQHCs deliver care to patients regardless of their immigration status, and, in 2016, the state gave \$16 million to FQHCs statewide to reach an additional 57,892 patients.⁷³ Although FQHCs provide essential services to undocumented individuals, the care often tends to be limited to preventive and primary care. Undocumented individuals needing specialty care, such as pulmonary and cardiology checkups,⁷⁴ and/or comprehensive health care coverage must often look elsewhere and have few, if any, options.⁷⁵

Readers should note that DACA recipients are **excluded** from the ACA marketplace, which, thanks to ACA subsidies that cut costs for households with incomes between 100% and 400% of the federal poverty level, gives many people — including most people with Deferred Action Status (Note: but not DACA recipients), U.S. citizens, nationals, and lawfully present immigrants — access to low-cost insurance.⁷⁶ The U.S. Department of Health and Human Services (HHS), however, has the authority to make DACA recipients eligible for the ACA marketplace via broad regulation⁷⁷ or approval of ACA Section 1332 waivers, which states can submit to HHS and the U.S. Department of the Treasury.⁷⁸

“Unfortunately, just three of the 15 states we examined offer state Medicaid access to small subsets of the undocumented community — that is, those within a certain age range and those with DACA. Most states — 12 of 15 — prohibit all undocumented individuals from accessing state Medicaid.”

States that give state Medicaid access to limited subsets of the undocumented community share similar eligibility requirements. Two of the three states that provide state Medicaid access — California and Illinois — require that undocumented individuals fall within a certain age range. California offers the full scope of Medicaid services, otherwise known as Medi-Cal, to all undocumented individuals under 26, as long as they meet all other Medi-Cal eligibility requirements.⁷⁹ Additionally, in May 2022, California expanded full-scope Medi-Cal to undocumented individuals 50 years of age or older who meet all other Medi-Cal eligibility requirements.⁸⁰ Effective January 1, 2024, California will expand full-scope Medi-Cal to all undocumented individuals, regardless of age, as long as they meet income requirements.⁸¹ Similarly, Illinois allows undocumented individuals ages 65 and older to access Illinois state Medicaid.⁸² In May 2022, the state expanded its Medicaid eligibility to undocumented individuals aged 55 to 64.⁸³

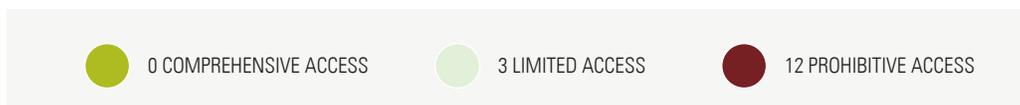
New York is the third state in our analysis that provides access to state Medicaid for limited segments of the undocumented community. New York lets DACA recipients qualify for state Medicaid.⁸⁴ In 2023, the state will also extend state Medicaid to undocumented individuals who are 65 and older.⁸⁵ Moreover, New York City (NYC) offers to undocumented individuals comprehensive health care access, and our analysis suggests that the city’s NYC Care plan is among the best in the U.S. outside of state Medicaid. The plan guarantees low-cost and no-cost services provided by NYC Health and Hospitals to New Yorkers — including undocumented individuals and regardless of immigration status⁸⁶ — who do not qualify for or cannot afford health insurance based on federal guidelines.⁸⁷ As such, undocumented individuals in NYC can access a variety of services, such as primary and preventive care, vision, mental-health and specialty care, and support services for housing, food, and nutrition.⁸⁸

Lastly, when we compared states that offer limited coverage to some undocumented individuals with those states that opt into the CHIP unborn child option coverage, we found that all but New York provide limited coverage and the CHIP unborn child option. This suggests that in California and Illinois, undocumented individuals between certain age ranges and undocumented pregnant people can get some health coverage.

TABLE 6: STATE HEALTH CARE ACCESS FOR UNDOCUMENTED STUDENTS IN THE 15 STATES WITH THE MOST UNDOCUMENTED HIGHER EDUCATION STUDENTS

Arizona	California*	Colorado	Florida	Georgia
Illinois*	Maryland	Massachusetts*	Nevada	New Jersey
New York	North Carolina	Texas*	Virginia*	Washington*

*Indicates states that offer Children’s Health Insurance Program (CHIP) “Unborn child” coverage.



Source: State health agencies.

7. State Housing Assistance

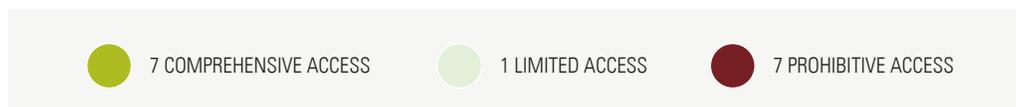
Undocumented individuals may be able to access state housing resources, including rental subsidy programs, public housing, homelessness-prevention/assistance programs, emergency housing programs, and programs that assist individuals with disabilities, mental illnesses, or elder care. While program offerings and eligibility requirements vary from state to state, assistance programs usually fall under the general categories listed above. We contacted state housing agencies across our 15-state sample for information about the eligibility of undocumented individuals for state housing-assistance programs.

Seven of the 15 states provide access to state-funded housing-assistance programs for all undocumented individuals. Unlike states with comprehensive access, where eligibility for homeless-assistance programs includes individuals at risk of homelessness, Texas requires undocumented individuals to already be homeless to be eligible for the program. The remaining seven states deny all undocumented individuals access to state-funded housing-assistance programs.

Among those states that provide comprehensive access to state-funded housing assistance for undocumented individuals, Colorado stands out. In April 2021, the Colorado state legislature enacted a law making it unnecessary for applicants for federal, state, or local housing benefits to verify their lawful presence in the U.S., unless required by federal law.⁸⁹ This legislation has helped to remove barriers and ensure that members of the undocumented community can access some key federal, state, and local housing benefits where applicable and when necessary.

TABLE 7: STATE HOUSING ASSISTANCE FOR UNDOCUMENTED STUDENTS IN THE 15 STATES WITH THE MOST UNDOCUMENTED STUDENTS IN HIGHER EDUCATION

Arizona	California	Colorado	Florida	Georgia
Illinois	Maryland	Massachusetts	Nevada	New Jersey
New York	North Carolina	Texas	Virginia	Washington



Source: State housing agencies.

8. State Food Assistance

Six states in the country offer state-funded food-assistance programs to some immigrant households that are ineligible for SNAP due to the passage of PRWORA.⁹⁰ These programs primarily provide food assistance to individuals with legal permanent resident status⁹¹ and use federal food stamps.⁹² Federal guidelines for the use of these federal funds make undocumented individuals ineligible for these state-funded food-assistance programs. This information was confirmed by the local state nutrition agencies in these states. As such, none of the 15 states we examined offers state-funded food-assistance benefits to undocumented individuals.

Our findings around access to state health care, housing, and food assistance for undocumented individuals indicates that undocumented students are broadly denied access to basic-needs supports. Although some undocumented students may have access to campus health insurance, housing assistance, and food assistance, coverage varies by higher education institution. Having secure access to basic-needs benefits beyond the limited basic-needs supports some institutions provide would make a huge difference in the lives of undocumented students and help ensure that they are able to persist and graduate.

As state policymakers consider ways to ensure the academic success of undocumented students, they must ensure that all undocumented individuals are eligible for the full scope of state Medicaid services and the ACA marketplace, state-funded housing-assistance programs, and state-funded food assistance, as these are a baseline for students' mental and physical well-being. Access to basic-needs supports must also be paired with availability of all the other criteria outlined in this report, such as in-state tuition and state financial aid.

TABLE 8: STATE FOOD ASSISTANCE FOR UNDOCUMENTED STUDENTS IN THE 15 STATES WITH THE MOST UNDOCUMENTED STUDENTS IN HIGHER EDUCATION

Arizona	California	Colorado	Florida	Georgia
Illinois	Maryland	Massachusetts	Nevada	New Jersey
New York	North Carolina	Texas	Virginia	Washington



0 COMPREHENSIVE ACCESS



0 LIMITED ACCESS



15 PROHIBITIVE ACCESS

Source: State food assistance agencies.

9. State Sanctuary Policies

While undocumented students face multiple barriers to higher education access and success, they also live with the constant stress and worry that they or a loved one might be deported. Those fears can be heightened by federal, state, and local politics and the on-campus climate at their institution.⁹³ Undocumented undergraduate students in California who were surveyed in spring 2020 said they felt anxious about the threat of deportation.⁹⁴ Of the nearly 1,300 students surveyed, 50% said they thought about a parent/guardian's deportation once a week or more, and 38% reported having frequent recurring thoughts about their own deportation.⁹⁵ It's easy to understand why. Thirty-nine percent of those surveyed reported that they, a family member, and/or friend had been involved in a deportation proceeding, detained, or deported.⁹⁶ All that stress and fear take a toll on the mental health of these students. A different survey of undocumented students in California found that respondents' anxiety levels were up to 7 times higher than the norm.⁹⁷ Not surprisingly, this constant fear of deportation can affect a student's ability to fully engage inside and outside the classroom and/or complete a degree. Undocumented students who rely on public transportation, for example, may be reluctant to attend school or activities for fear that they will be stopped while in transit.⁹⁸

Over the past couple of years, some states, counties, cities, and educational institutions have begun to enact policies that limit cooperation with federal immigration enforcement authorities who seek to identify, detain, and/or deport undocumented individuals. These policies, known as "sanctuary" policies, can vary widely.⁹⁹ For the purposes of this report, state sanctuary policies are those that limit the most common ways in which local agencies interact with immigration enforcement, as defined in the Immigrant Legal Resource Center report *The Rise of Sanctuary* (see the Glossary for more information).¹⁰⁰

Some sanctuary schools — including schools, school districts, and higher education institutions — have also implemented policies that restrict cooperation with federal immigration enforcement.¹⁰¹ Examples of these policies include but are not limited to those that bar campus police from acting as immigration agents or asking individuals on campus about their immigration status as well as policies prohibiting the collecting or sharing of information about the immigration or citizenship status of students, faculty, or staff.¹⁰²

Some of these policies exist as local resolutions; others are local laws. Moreover, compliance with them varies by jurisdiction,¹⁰³ and there may be nuances, exceptions, or loopholes that local or federal law enforcement can exploit to harm undocumented individuals.¹⁰⁴ It's also important to note that the term "sanctuary" has been co-opted by some anti-immigrant advocates who oppose protections for the undocumented community.¹⁰⁵

In October 2021, the DHS issued updated guidance to U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) on immigration enforcement in or near certain areas. This [Protected Areas Policy](#) orders ICE and CBP to limit enforcement actions in or near locations that would restrain people's access to essential services or engagement in essential activities and creates "protected areas." The memo lists examples of protected areas, which include schools — that is, preschools, primary and secondary schools, vocational and trade schools, and colleges and universities. Some higher education institutions have used this guidance to design policies protecting undocumented students, and states and institutions that haven't already done so can use it to establish similar sanctuary policies to protect undocumented students from harm.

Our framework is intended to help states expand higher education access for undocumented students — which includes encouraging states to enact statewide and institutional sanctuary policies so these students can safely go to college, focus on

their studies, earn degrees, and get on with their lives. Toward that end, we scanned the state policy landscape across the 15 states in our sample to see which of them has one or more statewide sanctuary policies in place and which have additional work to do.¹⁰⁶ We also offer an overview of common sanctuary-policy types in our Glossary.¹⁰⁷

Nine of the 15 states in our sample have at least one policy limiting local cooperation with federal immigration authorities to identify, detain, or deport undocumented individuals.¹⁰⁸ Six of the 15 states lack any such policy, though it's important to note that this doesn't necessarily mean that these six states are actively cooperating with federal immigration authorities.

Of those states that have one or more sanctuary policies, two are doing innovative policy work to protect undocumented higher education students. In 2019, the Washington state legislature enacted a law requiring the attorney general, in consultation with appropriate stakeholders, to publish model policies for limiting immigration enforcement at public schools, health facilities, courthouses, and shelters, so they remain accessible to all residents, regardless of immigration or citizenship status.¹⁰⁹ In May 2020, the state's attorney general office produced a report highlighting guidance, model policies, and best practices for limiting immigration enforcement at public schools.¹¹⁰ This report also outlines model policies for higher education institutions to follow. Moreover, in 2017, California passed a law that requires all CSU, UC, and California Community College campuses, as well as Cal Grant–eligible higher education institutions, to follow specific guidance that shields students from immigration enforcement activities on campuses.¹¹¹ This legislative guidance signals a strong commitment by state leaders to ensuring the success of undocumented higher education students.

TABLE 9: STATE SANCTUARY POLICIES IN THE 15 STATES WITH THE MOST UNDOCUMENTED STUDENTS IN HIGHER EDUCATION

Arizona	California	Colorado	Florida	Georgia
Illinois	Maryland	Massachusetts	Nevada	New Jersey
New York	North Carolina	Texas	Virginia	Washington



9 COLLABORATION LIMITED



6 COLLABORATION ALLOWED

Source: National Conference of State Legislatures (NCSL) Immigration Laws and Current State Immigration Legislation Database and state immigration advocacy agencies.

State policymakers considering ways to boost the success of undocumented students would be wise to pass state policies that limit local cooperation with federal immigration enforcement, especially as it pertains to immigration enforcement activities on higher education campuses. These state sanctuary policies will help ensure that undocumented students have one less thing to worry about as they pursue their postsecondary studies and graduate.

State and Federal Policy Recommendations to Ensure Undocumented Student Access and Success in Higher Education

All undocumented students — regardless of their immigration status — should be able to confidently access, afford, and succeed in higher education. But state and federal barriers to financial aid and public benefits often make it harder for these students to attend college, complete a degree, and succeed beyond graduation. Equitable education for these students is a racial justice and equity issue: Nearly 90% of the undocumented students in higher education are students of color. Federal and state governments could and should be doing more to help these students access and complete a college education and reap the benefits of their education after graduation.

What follows are policy recommendations state and federal policymakers can implement to ensure that undocumented students have equitable access to a higher education and the tools they need to succeed. Additionally, this online tool provides a list of findings and barriers to address in each of the 15 states. Note that “all undocumented students” refers to DACA recipients **and** those without DACA.

FEDERAL RECOMMENDATIONS

1. Enact a pathway to citizenship for all undocumented individuals, including DACA recipients.
2. Repeal [20 U.S.C. 1091\(a\)\(5\)](#) of the HEA to make all undocumented students eligible for federal financial aid.
3. Repeal Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which states that undocumented students cannot receive higher education benefits based solely on in-state residency if U.S. citizen students who are not state residents are not offered those benefits.
4. Repeal [8 U.S.C. § 1611](#) and [8 U.S.C. § 1621](#) of the PRWORA, which prohibits undocumented individuals from accessing federal and state public benefits, including higher education benefits, and professional or commercial licenses “provided by an agency of the U.S” or “an agency of a State or local government.”
5. The HHS should make DACA recipients eligible for the ACA marketplace through broad regulation and approve ACA Section 1332 waivers from states that submit them to HHS and the U.S. Department of the Treasury to allow undocumented individuals to purchase ACA health insurance.
6. Enact federal legislation prohibiting the federal government and states from denying professional or commercial licenses to undocumented individuals, and allow work authorization for undocumented individuals who receive a professional or commercial license.
 - a. Enact federal legislation expanding eligibility for professional or commercial licenses to DACA, TPS, and Deferred Enforced Departure (DED) recipients.¹¹²

7. Enact federal legislation prohibiting discrimination for any state higher education benefit based on an individual's immigration status.
8. The U.S. Department of Education should provide guidance for all U.S. higher education institutions on classifying all undocumented students as “domestic students” rather than “international students.” Many higher education institutions classify undocumented students as “international students”; as a result, these students are often less likely to be admitted. When they are, they are often charged out-of-state tuition rates and deemed ineligible for state financial aid.¹¹³
9. DHS should reallocate funds to provide fee waivers to DACA recipients in need.¹¹⁴

STATE RECOMMENDATIONS

1. Expand public benefits (including higher education, professional/occupational licenses, state Medicaid, housing, food assistance) to all undocumented individuals. According to 8 U.S.C. § 1621 of the PRWORA, states can provide state public benefits to undocumented individuals if they pass legislation affirmatively extending eligibility to these individuals.
2. Submit ACA Section 1332 waivers to HHS and the U.S. Department of the Treasury to allow undocumented individuals — those with and without DACA — to purchase health and dental insurance through the ACA marketplace.¹¹⁵
3. Ensure that enrollment at all state higher education institutions is open to undocumented individuals — those with and without DACA, and those who do or do not reside in the state.
4. Make in-state tuition available for undocumented state residents — those with and without DACA.
5. Make all forms of state financial aid — including free college programs — available to undocumented individuals, those with and without DACA.
6. Make state driver's licenses and ID cards available to undocumented students — those with and without DACA. Prohibit the use of undocumented individuals' personal data for uses other than the receipt of a license or ID card.
7. End/prohibit local cooperation with federal immigration authorities. State policymakers should provide guidance, model policies, and best practices for ending immigration enforcement in entities providing public benefits, including public schools and higher education institutions.
 - a. The use of an undocumented student's personal information outside the reason for which it was provided should also be prohibited.
 - b. State and local offices of immigrant affairs should ensure that local education agencies, higher education institutions, and institutions that provide public benefits are aware of [DHS's Protected Areas Policy](#).
8. Annually appropriate funds to higher education institutions that enroll undocumented students and ensure that those funds are used to support undocumented students.

9. Ensure that state higher education institutions provide alternatives to employment for undocumented students who do not have work authorization. Higher education institutions can create or expand fellowships and entrepreneurship programming for these students and promote or support worker cooperative businesses led by undocumented students and graduates.¹¹⁶ Having a fellowship and starting a personal or cooperative business are legal alternatives to employment for undocumented individuals, and higher education institutions can use their academic offerings, partnerships, and expertise to help students navigate these pathways.
10. Require P-12 educators to receive training on how best to support undocumented students and their families in their local school districts — including training on best practices pertaining to enrollment, protected areas policies, making educational opportunities available to college-bound undocumented students in the state, as well as training for undocumented student resource liaisons (see NY [A782](#)).¹¹⁷
11. Require faculty and staff at higher education institutions to receive instruction on how best to support undocumented students, and require institutions to hire an undocumented student resource liaison (see IL [HB 3438](#) , CA [AB 1645](#) as models).

Glossary

1. UNDOCUMENTED

This term refers to individuals residing in the U.S. without a current or valid visa or authorization to remain and work permanently in the country. Individuals who entered the U.S. without inspection and proper permission from the government, or who entered the country with a valid but temporary U.S. visa that has expired, may be deemed undocumented and subject to deportation.¹¹⁸ These individuals can't obtain an SSN, which limits their ability to work and receive social services. The U.S. Constitution and the fundamental rights outlined therein apply to undocumented individuals,¹¹⁹ but how those rights are exercised in practice is more complex.¹²⁰

Most undocumented individuals have no way of attaining legal U.S. residency or full citizenship unless Congress creates a new path for them.¹²¹

2. DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)

On June 15, 2012, thanks to the relentless activism of undocumented youth organizers, the U.S. Secretary of Homeland Security announced that certain undocumented individuals who were brought to the U.S. as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal.¹²² They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a limited period. Deferred action does not provide lawful status.¹²³

This motion of deferred action, otherwise known as Deferred Action for Childhood Arrivals (DACA), provides eligible undocumented immigrants with temporary protection from deportation and a work permit that allows them to apply for an SSN.¹²⁴ Although DACA recipients may obtain an SSN, they are ineligible to receive federal benefits.

Several barriers are associated with applying for DACA, which is good for a two-year period.¹²⁵ The cost of applying for DACA is \$495, but this isn't a one-time fee. Individuals must renew DACA before it lapses, usually one year before expiration, and each time they do, they must pay another \$495. That adds up. At the time of this report, DHS, which processes initial DACA applications and renewal requests, was processing only renewals for active DACA beneficiaries, not new DACA applications. In addition, DHS is experiencing a significant backlog in approving DACA requests, and that's leading many individuals to lose their status.

A complete list of DACA eligibility requirements can be found at <https://www.uscis.gov/DACA>.¹²⁶

Individuals who need legal assistance or assistance in renewing their DACA can visit <https://unitedwedream.org/resources/for-daca-recipient-who-needs-support/>.¹²⁷

3. LAWFUL PERMANENT RESIDENTS (LPRS)

This term refers to noncitizens who have legal authorization to reside and work permanently in the U.S. LPRs may become eligible for U.S. citizenship after five years (or after three years through marriage to a U.S. citizen) via a process known as naturalization.¹²⁸ Having legal authorization to live and work in the U.S. enables LPRs to access certain benefits that are not available to undocumented individuals, such as taking up employment without special restrictions, receiving financial assistance at public colleges and universities, receiving public benefits, and joining the armed forces.¹²⁹

4. DREAMER

This term comes from proposed legislation — known as the Development, Relief and Education for Alien Minors (DREAM) Act — which would have protected from deportation certain immigrants who were brought to the U.S. as children and provided them with a way to remain in the U.S. indefinitely. Based on their age at the time of U.S. entry, these individuals would have been able to apply for conditional residency and eventually permanent residency. Various versions of the DREAM Act have been introduced in Congress — the first version in 2001 — but, to date, all of them have failed to pass.¹³⁰ The individuals who would have benefited from this act are called DREAMers. The term is also applied colloquially to anyone who came to the U.S. as a child.

5. SOCIAL SECURITY NUMBER (SSN)

This nine-digit number is issued to U.S. citizens, permanent residents, and temporary residents under section 205 of the Social Security Act, now codified as 42 U.S.C. § 405.¹³¹ Having an SSN enables an individual to work and receive government benefits.¹³² Undocumented individuals who are **not** DACA recipients are **not** eligible for an SSN.

6. INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER (ITIN)

This tax processing number is issued by the IRS to people who pay taxes and are, therefore, required to have a U.S. taxpayer identification number but do not have and [are not eligible](#) to obtain an SSN from the Social Security Administration.¹³³ Undocumented individuals who do not have DACA can obtain an ITIN but are ineligible for an SSN on account of their immigration status.

7. SANCTUARY POLICIES

Policies restricting local cooperation with federal immigration enforcement are often called sanctuary policies and can vary widely, as local engagement with federal immigration enforcement activities takes many forms. In this report, we define them as policies that not only provide undocumented individuals with **basic legal and procedural protections** but also limit local agencies from interacting with immigration enforcement in certain common ways, as detailed by the Immigrant Legal Resource Center in their report [The Rise of Sanctuary](#)— that is, **no 287 (g) agreements**, which grant local and state law enforcement agencies the authority to enforce immigration laws; **no ICE detention contracts with state or local jails** (in other words, ICE can't pay local law enforcement authorities to hold immigrants during deportation proceedings); **limits on ICE detainers**, which are requests to hold individuals after they should be released, so ICE agents can come and take them into custody; **limits on sharing information with ICE** about individuals' custody-release dates or other information; **limits on ICE access to local jails** and **interrogations of detainees**; **prohibitions on racial profiling and inquiries about the immigration status** of individuals; and **general restrictions on participating in immigration enforcement**.¹³⁴

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Our Mission

The Education Trust is committed to advancing policies and practices to dismantle the racial and economic barriers embedded in the American education system. Through our research and advocacy, Ed Trust improves equity in education from preschool through college, engages diverse communities dedicated to education equity and justice, and increases political and public will to build an education system where students will thrive.



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