

Undocu Advocacy Training: Terminology

Words that will never be able to define the complexity and reality of being a human being and an immigrant in the United States

Affidavit: A supporting document used to confer in-state tuition for undocumented students. It serves two purposes: 1) to verify that the student meets the educational requirements and 2) to certify the intent to establish legal residency once given the opportunity. An affidavit is used only in states that offer in-state tuition rates to undocumented students, Washington State being one of them.

Asylum Seeker: a person who has left their home country as a political refugee and is seeking asylum in another. Only asylum seekers who are granted refugee status are allowed to work in the country.

Citizen: Individuals who obtain U.S. citizenship by birth in the U.S. or by process of naturalization. Citizens obtain a Social Security Number.

Comprehensive Immigration Reform (CIR): Reform of the immigration system as a whole. Some issues that are discussed in CIR are border enforcement, border security, adjusting the status of the undocumented population living in the U.S., visa reforms, among others.

Cultural Citizen: Acknowledges the cultural resiliency and social reproduction in which undocumented peoples participate. They take part in the class, cultural, and linguistic knowledge and skills that establish the cultural capital of social groups in the U.S.

DACAmented: The term is used by some undocumented individuals who have received DACA. DACAmented (similar to DREAMer) is sometimes used as a way to navigate away from the negative connotations given to terms such as undocumented, immigrant, non-U.S. citizen and so forth.

Deferred Action for Childhood Arrivals (DACA): DACA is program announced on June 12, 2012 by President Barack Obama that is to protect individuals who qualify from deportation and give them a work permit for 2 years. The program is renewable. Deferred Action does not provide lawful status.

DREAM Act: The Development Relief and Education for Alien Minors (DREAM) Act is a piece of legislation proposed to provide a pathway to permanent residency and U.S. citizenship for qualified undocumented immigrant students. The DREAM Act has been proposed several times in Congress since 2001, but has not been approved.

DREAMer: DREAMer refers to students who are undocumented and are also part of the DREAM Act movement. DREAMer is a term commonly used by students who connect with the DREAM Act movement, and sometimes used as a way to navigate away from the negative connotations given to terms such as undocumented, immigrant, non-U.S. citizen and so forth.

Dropping The I-Word: "Illegals" is a racially charged slur used to dehumanize and discriminate against immigrants and people of color regardless of migratory status. The I-word is shorthand for "illegal alien," "illegal immigrant" and other harmful terms. The Applied Research Center (ARC) and Colorlines.com, have presented the Drop The I-Word campaign to eradicate the slur "illegals" from everyday use and public discourse.

Entry without Inspection: Refers to individuals who have entered the U.S. without presenting normative government accreditation (i.e. visa).

Family Educational Rights and Privacy Act (FERPA): Federal law that was enacted in 1974. FERPA protects the privacy of student education records, which applies to all schools (K-12 and Post-Secondary). Overall, this law protects record of immigration status of all students.

F-Visa: It is a type of visa issued to students who are not from the United States but who are attending an academic program or English language program at a U.S. college or university. These students are required to maintain a full-time course load for the entirety of their approved stay.

Generation 1.5: Refers to immigrants who were brought to the U.S as young children and identify as American. The label comes from the groups' special place as first generation Americans who migrate to this country during childhood and feel strong identification with the U.S., yet are native to another country.

House Bill 1079 (HB 1079): Washington State law signed on March 7th 2003, which allows eligible undocumented students to pay in-state tuition at public higher education institutions. Must fill out HB 1079 Affidavit and send it to the higher education institution to qualify as a Washington State resident and to be able to pay in-state tuition.

Immigrant: In U.S. context this term refers to all people who are born outside of the United States. Some people also use the term foreign born.

Individual Tax Identification Number (ITIN): A U.S. tax processing number, issued by the Internal Revenue Service to individuals who are required to have a taxpayer identification number but who do not have, and are not eligible to obtain, a social security number. International Student- Most colleges and universities consider any student who currently holds a visa of any type or is seeking a visa to be international. Undocumented students are not viewed as international applicants because many do not qualify for a visa, in addition undocumented students should not have to go through the international admission process as they cannot provide an international student visa.

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Legal Permanent Resident (LPR): or “green card” recipient is defined by immigration law as a person who has been granted lawful permanent residence in the U.S.

Mixed Status Family- Refers to students that are either: 1) undocumented, but have family members that are U.S. residents or U.S. citizens or 2) are U.S. residents or U.S. citizens but have family members that are undocumented.

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Naturalization: The process by which U.S. citizenship is conferred upon a lawful permanent resident after he or she fulfills the requirements established by Congress in the Immigration and Nationality Act (INA). The general requirements for administrative naturalization include: a period of continuous residence and physical presence in the United States; an ability to read, write, and speak English; a knowledge and understanding of U.S. history and government; good moral character; attachment to the principles of the U.S. Constitution; and a favorable disposition toward the U.S.

Non-Citizen: The non-citizen category applies to people born outside of the U.S. and who have not applied for or have been granted citizenship. Permanent residents also fall into this category.

Non-Immigrant Visa: Issued to the citizens of other countries coming to the U.S. temporarily. Some of the nonimmigrant categories are students, tourists, treaty investors, foreign government officials, etc.

Plyler v. Doe: Supreme Court ruling of 1982 stating that the United States cannot constitutionally deny students a free K-12 public education, due to their immigration status. However, this does not apply to higher education.

Overstayed Visa: Refers to individuals who have stayed in the U.S. after their tourist, visitor, or student visa has expired and thus they become undocumented by overstaying their visa.
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Senate Bill 6523 (SB 6523): Washington State law signed on February 23rd, 2014, which allows HB 1079 eligible undocumented students to have access to the State Need Grant for their undergraduate degree. Also known as the WA DREAM Act/REAL Hope Act.

Temporary Protected Status (TPS): is a temporary immigration status granted to nationals of certain countries who are already in the U.S.

T-Visa: T Nonimmigrant Status (T visa) is a set aside for individuals who are or have been victims of human trafficking. It protects victims of human trafficking and allows victims to remain in the United States to assist in an investigation or prosecution of human trafficking.

Unauthorized: This term is used to highlight the fact that all peoples have documents (i.e. birth certificate, a form of identification card, and so forth), but that they are residing in the U.S. without legal authorization, thus unauthorized.

Undocumented: Undocumented refers to people who are not U.S. citizens or Permanent Residents of the United States, who do not hold a visa to reside in the U.S. and who have not applied for legal residency in the U.S. Undocumented people came to the United States without legal documentation or overstayed their visas.

U-Visa: is an immigration benefit that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime, or who are likely to be helpful in the investigation or prosecution of criminal activity.

Washington Application for State Financial Aid (WASFA): eligible undocumented students who are residents of Washington States, are unable to file a Free Application for Federal Student Aid (FAFSA) due to immigration status, but may instead complete the WASFA. This is due to the passing of SB 6523, giving access to eligible students to apply for the State Need Grant. The application opens on October 1st of every year at www.readysetgrad.org/wasfa and must be submitted by the higher education institution's priority deadline.



Undocu Advocacy Training: Federal Legislation & Programs that Influence Undocumented Students

1882: Chinese Exclusion Act - The Chinese Exclusion Act was a federal law that became the first major law restricting immigration to the U.S. The act was created in response to racially and economically-driven fears that native-born Americans would experience increased unemployment and declining wages because of Chinese workers, who were viewed as racially inferior. Chinese were drawn to the west coast after the gold rush to work on the expansion of the transcontinental railroad. The law ultimately halted Chinese immigration for ten years and prohibited Chinese from becoming U.S. citizens. Through the Geary Act of 1892, the law was extended for another ten years before becoming permanent in 1902¹. It was not until the Immigration Act of 1965, which eliminated previous national-origins policies that large-scale Chinese immigration to the United States was allowed to begin again after a hiatus of over 80 years.

1924: The Johnson-Reed Immigration Act – This federal legislation included a Japanese Exclusion provision that barred all immigrants from Asia in order to target the Japanese. There were implemented limits on the amount of individuals that could be admitted to the U.S. from any country of origin. The quota limited immigration visas to only 2 percent of the total number of people of each nationality residing in the U.S. as of the 1890 national census². This is how the U.S. first started limiting how many immigrants it would allow from each country of origin.

1954: Brown v. Board of Education – Brown v. Board of Education was the name given to the five cases consolidated and heard by the U.S. Supreme Court concerning the issue of segregation in public schools. While the facts of each case are different, the main issue raised was that separate school systems for blacks and whites were inherently unequal, and thus violated the equal protection clause of the fourteenth amendment to the U.S. Constitution. The Court ruled that in the field of public education the doctrine of separate but equal had no place. Separate educational facilities were deemed unconstitutional and inherently unequal³. The decision overturned Plessy v. Ferguson which in 1896, allowed state-sponsored segregation.

1965: Immigration and Nationality Act (the Hart-Cellar Act)- This federal legislation abolished the national origins quota system that was implemented in the Johnson-Reed Immigration Act, replacing it with a preference system that focused on immigrants' skills and family relationships with U.S. citizens or U.S. legal residents⁴. The U.S. numerical restrictions on visas were set at 170,000 per year.

1965: Higher Education Act (HEA) – The HEA authorizes the provision of federal student aid and must be renewed approximately every 5 years by Congress. During reauthorization, Congress is able to make various changes, such as adding new programs, streamlining existing programs, and increasing authorized funding levels⁵. Under the HEA, undocumented students do not qualify for federal financial aid, including Pell Grants, the federal work-study program, and federal loans⁶.

¹ Harvard University Library: Chinese Exclusion Act (1882) <http://ocp.hul.harvard.edu/immigration/exclusion.html>

²The U.S. Department of State, Office of the Historian: The Immigration Act of 1924 (The Johnson-Reed Act) <https://history.state.gov/milestones/1921-1936/immigration-act>

³ United States Courts- History of Brown v. Board of Education

<http://www.uscourts.gov/educational-resources/get-involved/federal-court-activities/brown-board-education-re-enactment/history.aspx>

⁴ University of Washington Bothell and Cascadian College http://library.uwb.edu/guides/usimmigration/1965_immigration_and_nationality_act.html

⁵ Reauthorization of the Higher Education Act of 1965: <http://www.finaid.org/educators/reauthorization.phtml>

⁶ Center for American Progress: States Must Expand Higher-Education Opportunities for Undocumented Students <https://www.americanprogress.org/issues/higher-education/news/2015/03/13/108672/states-must-expand-higher-education-opportunities-for-undocumented-students/>

1965: Free Application for Federal Student Aid (FAFSA) – The FAFSA form was created under the Title IV of the Higher Education Act of 1965 to help manage student financial assistance programs. The programs provided grants, loans, and work-study funds to U.S. Citizen, U.S. Resident, or eligible students with visas attending college or career schools⁷. Undocumented students are not eligible for federal student aid; however, if the student has been granted DACA they can fill out the FAFSA application to get their Student Aid Report (SAR). The SAR is sometimes used by community/private scholarships or institutions to grant financial aid to students that are not connected to federal or state funding.

1974: Family Education Rights and Privacy Act (FERPA) – FERPA is a federal law that protects the privacy of student’s education records, identifying data, health data, family background information, and information on student behavior. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level⁸. Under FERPA undocumented immigrant students’ immigration status falls under identifying information. If the student’s family is also undocumented, the student’s family background information is also protected.

1982: Plyler v. Doe – Under Plyler v. Doe the U.S. Supreme Court ruled that a State may not deny access to a basic public education to any child residing in the State, whether present in the U.S. legally or otherwise. Plyer makes clear, that the undocumented or non-citizen status of a student (or his or her parent or guardian) is irrelevant to that student’s entitlement to an elementary and secondary public education. K-12 institutions of education cannot discriminate on the basis of immigration status or request information with the purpose or result in denying access to public school on the basis of race, color or national origin. A school district may not bar a student enrolling in its school based on a foreign birth certificate. Similarly, a district may not deny enrollment to a student if he or she (or his or her parent or guardian) chooses not to provide a social security number⁹.

1986: Immigration Reform and Control Act (IRCA)⁹– Enacted November 6, 1986, IRCA is an Act of Congress that reformed U. S. immigration law. IRCA required employers to attest to their employees’ immigration status. It made it illegal to knowingly hire or recruit undocumented immigrants. It legalized certain seasonal agricultural workers who were undocumented and legalized undocumented immigrants who entered the U.S. before 1982, had resided there continuously with the penalty of a fine, back taxes due, and admission of guilt. Approximately 3 million undocumented immigrants were granted legal status as a result of this law¹⁰.

1996: Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) - Section 505 of IIRIRA mandates that “unauthorized immigrants shall not be eligible on the basis of residence within a state for any post-secondary education benefit unless a citizen or national of the U.S. is eligible for such benefit without regard to whether the citizen or national is such a resident provided on or after July 1, 1998”¹¹. While Section 505 does not explicitly prohibit states from offering unauthorized immigrants in-state tuition it has been proven problematic because it sets a federal mandate for state residency requirements, a determination states typically make. Generally public colleges and universities use graduation from an in-state high school as the main criteria for residency. Currently, 18+ states use this criteria to defend their policies which grant admission and in-state tuition to undocumented students in their state and thus not apply the mandate.

⁷ Federal Student Aid: An office of the U.S. Department of Education- Who we are <https://studentaid.ed.gov/about>

⁸ U.S. Department of Education: Laws and Guidance-Legislative History of Major FERPA Provisions <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/leg-history.html>

⁹ Department of Homeland Security: U.S. Citizenship and Immigration Services-Public Law <http://www.uscis.gov/tools/glossary/immigration-reform-and-control-act-1986-irca>

¹⁰ U.S. Department of Education: Office for Civil Rights- Joint “Dear Colleague” Letter: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201101.html>

¹¹ Department of Homeland Security: U.S. Citizenship and Immigration Services-Public Law <http://www.uscis.gov/iframe/link/docView/PUBLAW/HTML/PUBLAW/0-0-0-10948.html>

1996: Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) – PRWORA was a large welfare reform that redefined eligibility to social services and programs, and originally barred all immigrants (including authorized immigrants) from receiving Temporary Assistance for Needy Families (TANF), Food Stamps (SNAP), Medicaid, and Supplemental Security Income (SSI). This was eventually amended to include some authorized immigrants; however, undocumented immigrants are still ineligible for these public benefits. PRWORA increased states' authorities in the provision of public benefit programs by granting them the ability to implement state legislation to regulate the use of state funds. Welfare availability for immigrants now varies from state to state; however, undocumented immigrants are currently barred from these programs in all states¹².

2001: Federal Development Relief and Education for Alien Minors Act (Federal DREAM Act) - The DREAM Act is a piece of legislation proposed to provide a pathway to permanent residency and eventual U.S. citizenship for qualified undocumented youth and young adults. The DREAM Act was first introduced in 2001 by Senator Dick Durbin from IL. Since its first introduction, the DREAM Act has been proposed several times in Congress but has yet to pass. The most recent time that it was brought up to vote was in 2010. Because of the failure of the vote many undocumented youth and young adults still do not have a lawful status¹³.

2012: Deferred Action for Childhood Arrivals (DACA) – On June 12, 2012, the Secretary of Homeland Security announced that certain undocumented people who came to the U.S. as children and meet several guidelines may request consideration of deferred action (protection from deportation) for a period of two years, subject to renewal. They are also eligible for work authorization and a social security number for a period of three years also subject to renewal. DACA recipients are also eligible to apply for advanced parole¹⁴ therefore opening the opportunity to participating in study abroad programs. DACA provides lawful presence, but it does not provide lawful status¹⁵.

2014: Immigration Accountability Executive Action¹⁶- After two years of organizing by the undocumented immigrant community on November 20, 2014, President Barack Obama announced a series of executive actions on immigration¹⁷ to address immigration that prioritizes the deportations of felons not families, requires certain undocumented immigrants to pass a criminal background check and pay taxes in order to temporarily stay in the U.S. without fear of deportation. The initiatives include expanding the population eligible for DACA, allowing parents of U.S. citizens and lawful permanent residents who have been present in the country since January 1, 2010 to request Deferred Action and employment for three years, and expanding the provisional waivers of unlawful presence to include the spouses and sons and daughters of lawful permanent residents and children of U.S. citizens.

¹² Reese, E., Ramirez, E., & Estrada-Correa, V. (2013). The Politics of Welfare Inclusion: Explaining State Variation in Legal Immigrants' Welfare Rights. *Sociological Perspectives*, 56 (1), 97-130.

¹³ The White House Blog: Get the Facts on the DREAM Act <http://www.whitehouse.gov/blog/2010/12/01/get-facts-dream-act>

¹⁴ Department of Homeland Security: I-131 Application for Travel Document- <http://www.uscis.gov/i-131>

¹⁵ Department of Homeland Security: U.S. Citizenship and Immigration Services- DACA <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca>

¹⁶ The White House Office of the Press Secretary- <http://www.whitehouse.gov/the-press-office/2014/11/20/fact-sheet-immigration-accountability-executive-action>

¹⁷ Department of Homeland Security: U.S. Citizenship and Immigration Services- Executive Actions on Immigration- <http://www.uscis.gov/immigrationaction>