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## What Does Immigration Status Have to do with Law School

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# What Does **IMMIGRATION STATUS** Have to Do with Law School *Diversity?*

By Maryam Ahranjani

The American Bar Association (ABA) convened its first diversity pipeline conference approximately 15 years ago with the main goal of “outing” the problem that law school enrollment and the legal profession at large do not reflect society. There is widespread recognition and concern that the legal profession is less diverse than other professions.<sup>1</sup> Since then, and in many cases before that time, law schools have been explicit about trying to achieve a diverse student body by focusing on ethnicity, race, and national origin both in admissions and in student services. In fact, the Supreme Court recently reaffirmed the use of diversity in higher education admissions.<sup>2</sup> The ABA and Law School Admissions Council (LSAC) have teamed up to produce and maintain a [database](#) of diversity programs with the goal of promoting models of success.

Although exact numbers are difficult to ascertain, one of the groups that seems underrepresented both

in higher education in general and in law school in particular is young people who are undocumented, many of whom ended up in the U.S. because they were brought as children by an adult family member or sent by family members. In *Plyler v. Doe*, the Supreme Court held that undocumented students cannot be prohibited from attending public, K-12 schools and recognized that “education provides the basic tools by which individuals might lead economically productive lives to the benefit of us all.”<sup>3</sup> Under President Obama’s Deferred Action for Childhood Arrivals (DACA) program, undocumented students were given an opportunity to pursue higher education or work opportunities for a limited time without fear of removal from the United States.<sup>4</sup> However, on Sept. 5, 2017, President Trump rescinded DACA, which simply means that there may be no new applicants to the program.<sup>5</sup> Congress has been urged to act to create legislation in place of DACA.<sup>6</sup>

1 Sarah Redfield, *The Education Pipeline to the Professions* (Carolina Academic Press, 2012).

2 *Fisher v. University of Texas at Austin*, [https://www.supremecourt.gov/opinions/15pdf/14-981\\_4g15.pdf](https://www.supremecourt.gov/opinions/15pdf/14-981_4g15.pdf) (2016).

3 467 U.S. 202 (1982).

4 <https://unitedwedream.org/about/projects/deferred-action/> visited on Oct. 9, 2017

5 <https://www.uscis.gov/daca2017> visited on Oct. 9, 2017

6 For updates on DACA, check the [National Immigration Law Center](#), [Migration Policy Institute](#), [United We Dream](#), and [MALDEF](#), [NALEO](#), and other web sites.

Recognizing the potential and vulnerable status of undocumented students, a number of states offer in-state tuition and other supports for undocumented students.<sup>7</sup> One of the strongest examples of state support is New Mexico. New Mexico state law explicitly prohibits discrimination against students based on their immigration status and provides in-state tuition and state funds to applicants who attended at least a year of secondary education in New Mexico and graduated or obtained a GED in New Mexico.

<sup>8</sup> Although access to funding for graduate students (particularly medical and law students) is more limited, in-state tuition is relatively very low. In fact, various sources consistently rate UNM as a Top 20 school out of 205 ABA-accredited schools in terms of value by taking into account tuition, cost of living, average indebtedness upon graduation, employment rates, and bar passage rates.

However, even low tuition can be a barrier to undocumented law students, so serious efforts are underway to raise additional funds for undocumented graduate students. Besides funding for law school, other challenges include licensure and employment. New York and California already allow undocumented law graduates to become licensed attorneys, and other states, including New Mexico, soon may follow.

Regardless of the rescission of DACA and whether Congress takes action, under Supreme Court precedent, students who are undocumented remain entitled to public, K-12 education, and many of them are entitled to higher education under state laws. Immigration status should not be a barrier to higher education. Not only do law schools have an educational interest in including diverse perspectives, including those of undocumented students, but *all* students benefit from learning with and from students who have lived in the shadows of our immigration system. 

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<sup>7</sup> <https://www.naspa.org/rpi/posts/in-state-tuition-for-undocumented-students-2017-state-level-analysis> visited on Oct. 9, 2017.

<sup>8</sup> <http://uleadnet.org/map/new-mexico-policy> and <http://undocumented.unm.edu/> visited on Oct. 9, 2017.

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