WELCOME TO

EDUCATIONAL EQUITY BEYOND ACCESS

Institutional Support for DACAmented and Undocumented Students
Moderator

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Director of Special Projects and Federal Relations,
Miami Dade College
Education for Undocumented Students

- However, federal law does not address educational rights in postsecondary education
- College degree increasingly important
Policy Climate

- Complex immigration policy environment
- Lack of comprehensive immigration reform
- Substantial variation from state to state
  - Immigration law
  - Enforcement patterns
  - Higher ed policies (tuition, state aid)
Goals of This Webinar

◆ Provide information
  ▪ Deferred Action for Childhood Arrivals (DACA) (Application and renewal)
  ▪ Other federal immigration policies (Violence Against Women Act; Special Immigrant Juvenile Status; U and T visas)

◆ Suggest tools and strategies
  ▪ Building and maintaining networks of support
  ▪ Disseminating necessary information (to students, administrators, staff members, offices, and community organizations)
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Equal Justice Works Fellow, National Immigration Law Center

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Research & Mobilization Coordinator, Centers for Educational Equity & Excellence (CE3) at UC Berkeley

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Adjunct Professor and Director of the National Immigrant Women’s Advocacy Project (NIWAP) at American University Washington College of Law
Legal Implications & Background of DACA

Ignacia Rodriguez
Equal Justice Works Fellow,
National Immigration Law Center
What is DACA?

◆ On June 15, 2012, in response to organizing by immigrant youth, DHS Secretary granted deferred action to certain immigrants who came to the U.S. at a young age.

◆ Deferred Action is a form of prosecutorial discretion

◆ Deferred action grantees are lawfully present in the U.S. for two-year renewable periods.

◆ Not a pathway to citizenship (not the “DREAM Act”)

◆ Benefits
  ▪ Will not be deported while DACA is current
  ▪ Access to work authorization ("Employment Authorization Document") and a Social Security Number
  ▪ Access to state driver’s licenses (except in Nebraska and Arizona)
  ▪ May apply for permission to travel abroad ("Advance Parole")
  ▪ Stops accumulating “unlawful presence” in the U.S.
Who Can Apply?

Requirements

1. Under the age of 31 as of June 15, 2012;
2. Came to the United States before your 16th birthday;
3. Have lived in the U.S. since June 15, 2007;
4. Physically present in the United States on June 15, 2012, and at the time of making your DACA application;
5. Not in lawful status on June 15, 2012;
6. Meet education or military requirement;
7. Have not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors;
8. Not a public safety or national security threat;
9. Generally, must be at least 15 years of age to request DACA
Where Are We With DACA?

- As of June 2014, approximately 580,000 DACA cases have been approved from across the country.

- **DACA Renewal Process**
  - Ideally, the individual should apply for DACA renewal **120-150 days** before the expiration date.
  - USCIS estimates they will take 120 days (4 months) to process these renewals.
  - Individual must submit the same forms with updated information and the cost is the same ($465).
  - The individual does NOT have to re-submit documents that they already submitted with their initial DACA application. Only need to submit new documents pertaining to Criminal or Immigration Removal proceedings.
What Are Campuses’ Legal Responsibilities and Resources for Supporting Undocumented and DACAmented Students?

- Nothing in federal law prohibits undocumented and DACAmented students from attaining higher education.

- Schools should work to ensure the comfort and success of all students, regardless of status.

- Undocumented and DACAmented students do not have access to federal financial aid. Growing number of states offer in-state tuition to students who meet certain criteria, regardless of their status. Some states offer financial aid provided by the state and/or institution.

- Protection of school records.

For more information, please visit NILC’s Access to Higher Education Toolkit http://www.nilc.org/eduaccesstoolkit.html
You can submit questions through the chat box on your screen.

Ignacia will answer a couple questions now, with an extended Q&A period at the end of the webinar.
UC Berkeley, Undocumented Student Program

Ruben E. Canedo
Research & Mobilization Coordinator,
Centers for Educational Equity & Excellence (CE3) at UC Berkeley
UC Berkeley, Undocumented Student Program

We provide guidance and support to undocumented undergraduates at Cal through a holistic, multicultural, and solution-focused approach that delivers individualized service for each student.
Epistemology

- Undocumented people have been in higher education for many generations

- Shifting in federal + state + higher ed systems’ policies + increasing cost of attendance = Higher Ed (In)accessible

- Federal Immigration & Dream Act Movement(s)
  - We are learning from and continuing to improve this legacy
UCB History With Non-Traditional Students

◆ Educational Opportunity Program 1964
  ▪ First-Generation Students
  ▪ Low-Income Students
  ▪ Ethnic Minorities

◆ UCB Undocu Efforts Timeline:
  ▪ Underground far back
  ▪ 2009 Building Critical Mass of Allies:
    • Official meeting between Chancellor Birgeneau, Undocumented Leaders, and advocates dinner meeting >> Chancellor becomes a champion for undocu students & efforts supporting their success !
  ▪ 2010 Institutional Commitment:
    • Chancellor’s Task Force on Undocumented Members of the On-Campus Community
      Who: u/g students, professional staff, faculty, administrators, and community
      Investigate and create list of recommendations to support the success of undocu on-campus community members
  ▪ 2011 Institutional Transformation for the Success of Undocu Students
    • Task Force Recommendations are Offered
      Where: Website >> Who We Are >> History >> List of Recs
      Create a staff support position : 0.5 FTE , trained & housed in the EOP
Why?:
- UCB as a public land grant institution has a responsibility to the public of the state of California
- UCB as an institution of higher education has the responsibility to ensure that all admitted students have the equitable support & resources they need to succeed.

How?
- EOP, 1964
  - First Generation College
  - Pell Grant
  - Ethnic Minorities
- USP, Sp 2012
  - First Generation College
  - Dream Act Aid
  - Ethnic Minorities
  - Pre-Documented

What?
- Undocumented Student Program
USP practices a holistic, multicultural, and solution-focused approach that delivers individualized service for each student.

The program’s mission is to support the advancement of undocumented students within higher education and promote pathways for engaged scholarship.

- Personal & Emotional Support & Advocacy
- Institutional Navigation Support & Advocacy
- Academic Support & Advocacy
- Professional Development Support & Advocacy
- Full Engagement in the UC Berkeley Experience
Full Engagement

◆ Recommendation #1:
  ▪ Identify yourself & welcome undocumented students

◆ Recommendation #2:
  ▪ Centralize Information for Undocu Students
    • For students to better navigate their admissions, transition, development, and post graduation journeys
    • For staff/faculty to become better educated about undocumented students, policies, immigration facts, undocumented students facts, and a communication about the commitment of your institution to support undocu students.

◆ Recommendation #3:
  ▪ Build your undocu task force / committee proactively:
    • Pre-College Programs Rep
    • Admissions Rep
    • Financial Aid Rep
    • Office of the Registrar Rep
    • Psychological Services/ Mental Health Rep
    • Academic Counseling Rep
    • Fundraising/Development Rep
    • U & G Rep (accordingly)
    • Leadership/Administration Rep
Legal Support:
- As differently abled students require additional support to succeed, so do undocu students.
- Are there campus experts in immigration law? If not, are there community experts? If not, tap into national experts (ex: NILC).

Embrace the unexpected:
- Hypothesis was about 80 undocu students:
  - by the end of our first semester Spring 2012: +180
  - in our current semester Fall 2014: +385
  - data & impact helped us advocate for 2 FTEs

Data:
- Do not shy away from data, data is essential!
- There is a way to protect the students & the university
- Make it a priority to capture it, strategize, analyze, and make decisions with the task force expertise & data findings
You will have students who do not qualify under the current policies and restrictions of support provided.

- Be honest
- Help them understand the changing landscape of federal, state, and institutional policies
- Honor & affirm their journeys
- Strategize & make a plan with them
• Increasing Awareness
• Deepen Understanding
• Advocate for undocumented students
• Serve as national model
• Support students, programs, institutions, systems, organizations, foundations, and government leaders

• Berkeley is possible!
• Transition to UC Berkeley
• Holistic Support & Development
• Preparation for success beyond UC Berkeley

USP Service Model: undocu.berkeley.edu
Beyond DACA: Pathways to Immigration Relief for Students

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Access to information about legal rights is a significant hurdle for immigrants eligible for crime victim related access to legal immigration status

- Including foreign born students

Universities provide an avenue for distribution of information about

- Crime victim avenues to lawful permanent residence
  - For DACA students
  - For other foreign born students
DHS priorities includes implementing laws that provide access to immigrant crime victim protections created by
- The Violence Against Women Act (VAWA)
- The Trafficking Victims Protection Act (TVPA)
- Special Immigrant Juvenile Laws (SIJS)

DHS Policies confirm that colleges and universities are not required to ask questions about immigration status for
- Applications
- Enrollment
Domestic violence and child abuse


- 49.8% of immigrant women experience domestic violence
- Rises to 59.5% if married to a U.S. citizen
- In domestic violence homes children witness and experience abuse

• Usually perpetrated by a male in the home
• 48.2% perpetrated by a father or step-father

Who could benefit:

- Married students – VAWA or U visa
- Spouses and children of faculty – VAWA or U visa
- Students who have suffered child abuse or neglect – VAWA, U visa or SIJS
- Students who have been abandoned by one or both of their parents - SIJS
Vulnerability of Foreign-Born Children and Youth to Crime Victimization

◆ Dating Violence
  ▪ One in three adolescents reports knowing a peer who has been part of a physically abusive relationship.
  ▪ Similar vulnerability for Asian, Black and White immigrant girls with Latino girls at reduced risk for dating violence (but not sexual assault)

◆ Who could benefit:
  ▪ Unmarried students abused in dating relationships – U visa
Vulnerability of Foreign-Born Children and Youth to Crime Victimization

◆ Sexual Assault

- High school aged immigrant girls are twice as likely to have suffered sexual assault as their non-immigrant peers to have suffered sexual assault

- Latina college students experience the highest incidents of attempted rape compared to White, African American and Asian college students
  Kalof, L., Ethnic Differences in Female Sexual Victimization, 4 Sexuality and Culture 75-97 (2000).

- Immigrant girls are also at increased risk for recurring sexual assault

◆ Who could benefit:

- Students who have been victims of sexual assault prior to college perpetrated by family members (VAWA, U visa, SIJS), traffickers (T-visa) or others (U visa)
- Students who become victims of sexual assault on campus (U visa)
- Students who suffered sexual assault in their home countries (Gender based Asylum)

National Immigrant Women's Advocacy Project, American University, Washington College of Law
Increased Vulnerability May Stem From

- Increased isolation
- Break-up & restructuring of families during immigration process
- Younger immigrant girls being actively targeted by sexual assault perpetrators who see them as particularly legally and socially vulnerable

- Exacerbated by
  - Fear of deportation
  - Language access
    - Communication about trauma in native language
Immigrant children, youth, students who have suffered any of the following may have a path to lawful permanent residency, work authorization and some access to public benefits:

- Battery or extreme cruelty
- Child abuse
- Domestic violence
- Sexual assault, rape, including attempted
- Abandonment or neglect by a parent
- Sex or labor trafficking
Campus Communities That Could Benefit

- DACA students
- Undocumented students
- Foreign students
- Sexual assault survivors
- Survivors of domestic violence, incest, or dating violence
- Stalking victims
- Trafficking victims
- Immigrant spouses and children of students, faculty and staff
Help You Can Provide

- Distribute information widely on campus
- Provide information to survivors
- Develop relationships with local programs
  - Domestic violence
  - Sexual assault
  - Immigrant serving
- Use and refer students to NIWAP’s directory
  - [http://niwaplibrary.wcl.american.edu/reference/service-providers-directory](http://niwaplibrary.wcl.american.edu/reference/service-providers-directory)
Crime Victim Based Immigration Relief and Visa Holders

◆ **F Visa – Students**
  - Duration of studies
  - No work authorization
  - Dependent spouses and under 21 year old unmarried children – no work authorization
  - Can apply for VAWA, T, U, and SJIS

◆ **J Visa (Professors, Scholars, Students)**
  - 2 year foreign residency requirement
  - Dependent spouses and under 21 year old unmarried children – no work authorization
  - Have work authorization
  - Can apply for T or U

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Subject to each applicant’s specific case, immigrants and their families may be eligible for powerful types of relief, including:

- (1) Violence Against Women Act (VAWA) Self-Petitions
- (2) U Visas
- (3) Special Immigrant Juvenile Status (SIJS)
- (4) Battered Spouse Waiver
- (4) T Visas
- (6) Asylum

All six offer immigrants a path to citizenship, which include work authorization and a “green card” without requiring any cooperation from a sponsor.
## (1) VAWA Self-Petition

### Aim

To protect victims of domestic violence and child abuse

### Eligibility

Survivors of domestic violence who
- (1) Have or had a qualifying relationship* with United States Citizen or Lawful Permanent Resident abuser
- (2) Reside with or resided with the abuser at some point
- (3) Have good moral character, and
- (4) Have been the victim of battery or extreme cruelty^  

*Relationships include: child, spouse, and parent of child. A child has until age 25 to apply as the victim of child abuse  
^Extreme cruelty includes any state crime committed against a family member sufficient for issuance of a protection order including sexual abuse, threats, attempts and/or emotional abuse, economic abuse, deportation threats and immigration-related abuse, intimidation, social isolation, degradation, harming pets, coercive control

### Examples of Eligible Persons

- Child abused by parent
- Child who witnessed abuse between parents
- Abused spouse of a Lawful Permanent Resident
- Abused spouse of a United States Citizen
VAWA Benefits

**While Case is Pending**
- Protection from deportation and removal
- VAWA Confidentiality that provides protections against the release of information and reliance on abuser-provided information
- Programs and services necessary to protect life and safety
- Usually within 3 months, receives access to public benefits as a qualified immigrant
  - FAFSA Post-secondary educational grants and loans
  - Health Care Exchanges
- Usually within 7 months, receives work authorization
  - Drivers licenses

**Upon Approval**
- Immigration benefits for children
- Eligible for lawful permanent residence immediately (citizen abuser)
- Eligible for lawful permanent residence ≈ 8 months; Mexico 2 years (lawful permanent resident abuser)
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**Qualifying Criminal Activities**

- Abduction
- Abusive sexual contact
- Blackmail
- Domestic violence
- Extortion
- False imprisonment
- Female genital mutilation
- Felonious assault
- Fraud in foreign labor contracting
- Hostage
- Incest
- Involuntary servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of justice

- Peonage
- Perjury
- Prostitution
- Rape
- Sexual assault
- Sexual exploitation
- Slave trade
- Stalking
- Torture
- Trafficking
- Witness tampering
- Unlawful criminal restraint
- Other related crimes
  - Including attempt, conspiracy or solicitation to commit any of the above and other related crimes
U Visa Benefits

◆ While Case is Pending
  ▪ Protection from deportation and removal
  ▪ VAWA Confidentiality that provides protections against the release of information and reliance on abuser-provided information
  ▪ Programs and services necessary to protect life and safety
  ▪ Access to government funded help open to all undocumented immigrants
  ▪ Usually within 7 months, receives work authorization
    • Drivers licenses
  ▪ Very limited access to some state funded benefits in a few states

◆ Upon Approval
  ▪ Immigration benefits for children
  ▪ Eligible for lawful permanent residence after 3 years
  ▪ Receives access to healthcare exchanges (no subsidies)
# (3) SIJS

## Aim
To protect the welfare of immigrant children who have been abused, abandoned or neglected by a parent.

## Eligibility
Youths who are under the age of 21* and unmarried, who
- (1) Have been abused, abandoned or neglected by one or both parents (in the U.S. or abroad)
- (2) Requires court order with findings
  - Issuing an order regarding the child’s custody, care or visitation and finding abuse, abandonment or neglect
  - Reunification with abusive parent not viable due to abuse, abandonment or neglect
  - Removal is not in the best interest of the child

*Many states require the children are below age 18.

## Examples of Eligible Persons
- Child abused by father
- Child neglected by one or both parents
- Child abandoned by father when child was a young age
SIJS Benefits

◆ While Case is Pending
  ▪ Protection from deportation and removal
  ▪ As lawfully present children receive access to
    • FAFSA post secondary educational grants and loans
    • healthcare exchanges (no subsidies)
  ▪ Legal work authorization
    • Leads to a driver’s license
  ▪ Programs and services necessary to protect life and safety

◆ Upon Approval
  ▪ Legal permanent residency
  ▪ Government-issued identification card
  ▪ Eligible for citizenship after five years
  ▪ Food stamps
  ▪ Public and assisted housing

◆ However, SIJS recipients may NEVER file family petition for natural parents

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## (4) Battered Spouse Waiver

### Aim
To allow abused spouses of citizens and lawful permanent residents to obtain full lawful permanent residency without waiting 2 years and without the abusive spouse’s cooperation.

### Eligibility
Survivors of domestic violence who
- (1) Were granted conditional permanent residency
- (2) Are or were married to a United States Citizen or Lawful Permanent Resident abuser
- (3) Good faith marriage
- (3) Battering or subject to extreme cruelty\(^\text{^}\)

\(^\text{^}\)Extreme cruelty includes any state crime committed against a family member sufficient for issuance of a protection order including sexual abuse, threats, attempts and/or emotional abuse, economic abuse, deportation threats and immigration-related abuse, intimidation, social isolation, degradation, harming pets, coercive control.

### Examples of Eligible Persons
- Abused immigrant spouses of U.S. citizens and lawful permanent residents
- Abused immigrant former spouses of U.S. citizens and lawful permanent residents
- Abused immigrant children and step-children can be included in their immigrant parent’s application.
While Case is Pending
- Maintain conditional permanent residence, work authorization, driver’s license
- Continued access to some state and federal public benefits
  - FAFSA Post-secondary educational grants and loans
  - Healthcare Exchanges

Upon Approval
- Full lawful permanent residency
### (5) T Visa and Continued Presence

#### Aim

To protect victims of severe forms of human trafficking*

*Federal law divides trafficking into two forms: sex trafficking and labor trafficking

#### Eligibility

Survivors of human trafficking who

- (1) Are or have been a victim of a severe form of human trafficking,
- (2) Are physically present in the United States on account of the trafficking,
- (3) Comply with any reasonable request for assistance with an investigation or prosecution, and
- (3) Would suffer extreme hardship involving unusual and severe harm upon removal from the United States

#### Examples of Eligible Persons

- Individual who had agreed to a job in the United States while overseas but upon arrival, the individual was tricked or coerced into other employment for low or no wage
- Individual held for ransom by coyotes after crossing into the United States
- Victim of forced prostitution
Human Trafficking Simplified

◆ Process:
  ▪ Recruiting,
  ▪ Transporting,
  ▪ Obtaining,
  ▪ Moving

◆ Means:
  ▪ Force,
  ▪ Fraud, or
  ▪ Coercion

◆ End:
  ▪ Labor or
  ▪ Commercial Sex

Common Examples of Force, Fraud, or Coercion

- Debt servitude
- Surveillance
- Physical barriers
- Psychological isolation from protections

- Threats to deport or contact law enforcement
- Threats to safety

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T Visa Benefits

◆ While Case is Pending
  ▪ Protection from deportation and removal
  ▪ VAWA Confidentiality that provides protections against the release of information and reliance on abuser-provided information
  ▪ Programs and services necessary to protect life and safety
  ▪ Upon receiving a bona fide determination or continued presence receives access to all federal and state public benefits available to refugees including
    • FAFSA Post-secondary educational grants and loans
    • Health Care Exchanges
  ▪ Receives work authorization
    • Drivers licenses

◆ Upon Approval
  ▪ Immigration benefits for children (and unmarried siblings if applicant is under age 21)
  ▪ Eligible for lawful permanent residence after 3 years
  ▪ Once certified by the Department of Health and Human Services, the individual is eligible for the same expansive services as a refugee (if applicant is under age 18, no certification is required)
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Asylum Benefits

◆ While Case is Pending
  ▪ Protection from deportation and removal
  ▪ Programs and services necessary to protect life and safety
  ▪ Access to government funded help open to all undocumented immigrants
  ▪ No later than 6 months after filing receives work authorization
    • Drivers licenses

◆ Upon Approval
  ▪ Immigration benefits for children and spouse
  ▪ Access to employment services from One-Stop Career Centers including job search assistance, career counseling, occupational skills training
  ▪ Eligible for public benefits from the Office of Refugee Resettlement
    • Post secondary educational grants and loans
    • Health care exchange access with subsidies
    • A broad range of other public benefits
  ▪ Eligible for lawful permanent residency after 1 year

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Public Benefits and Materials

- For information about public benefits for immigrants in your state, please go to interactive map http://niwap.org/benefitsmap/
  - Includes in-state tuition, access to driver’s licenses
- A list of funders that provide grants and scholarships not dependent on immigration status is available
- Materials available at
  - www.niwap.org/go/DACA
  - Includes report for non-governmental funders on the consequences of requiring a social security numbers in applications
  - Brochures, information, comparison charts

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Resources and Technical Assistance

- NIWAP web library [http://niwaplibrary.wcl.american.edu/](http://niwaplibrary.wcl.american.edu/)
  - Includes brochures to be made available for students, immigration relief comparison charts, access to up to date correct information

- Email us at niwap@wcl.american.edu

- Or call us at (202) 274-4457

- For referrals to programs in your state with expertise helping immigrant crime victim survivors see NIWAP’s directory
  - [http://niwap.org/directory/](http://niwap.org/directory/)

National Immigrant Women’s Advocacy Project,
American University, Washington College of Law
Resources

  (the webinar recording will be posted on uLEAD)


- Centers for Educational Equity & Excellence [http://ce3.berkeley.edu/](http://ce3.berkeley.edu/)

- UC Berkeley Undocumented Student Program [http://undocu.berkeley.edu/](http://undocu.berkeley.edu/)

- NIWAP web library [http://niwaplibrary.wcl.american.edu/](http://niwaplibrary.wcl.american.edu/)

- NIWAP service provider directory [http://niwap.org/directory/](http://niwap.org/directory/)
Institutional Support for DACAmented and Undocumented Students
Thank You for Joining Us!

Institutional Support for DACAmented and Undocumented Students

Please fill out a quick survey following the end of the webinar.