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U.S. IMMIGRATION POLICIES AFFECTING MEXICAN AND CENTRAL AMERICAN
YOUTH AND THEIR ACCESS TO HIGHER EDUCATION

Margaret Elizabeth Tejada

PIM 79

A Capstone Paper submitted in partial fulfillment of the requirements
for a Master of International Education at SIT Graduate Institute in Brattleboro, Vermont, USA.

August 8, 2022, Sora Friedman, PhD

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List of Abbreviations

BP	U.S. Border Patrol (under CBP)
CAM	Central American Minors Refugee Parole Program
CBP	U.S. Customs and Border Protection
DACA	Deferred Action for Childhood Arrivals
DHS	U.S. Department of Homeland Security
DOS	U.S. Department of State
DREAM Act	Development, Relief and Education for Alien Minors Act
EAD	Employment Authorization Document
ED	U.S. Department of Education
EOIR	Executive Office for Immigration Review (immigration court)
FAFSA	Free Application for Federal Student Aid
HEA	Higher Education Act of 1965
HE	Higher Education
ICE	U.S. Immigration and Customs Enforcement
IIRIRA	Illegal Immigration Reform and Immigration Responsibility Act
INA	Immigration and Nationality Act
INS	Immigration and Naturalization Services (now USCIS)
LPR	U.S. Lawful Permanent Resident
MSFAA	Maryland State Financial Aid Application
NAFSA	NAFSA: Association of International Educators
ORR	Office of Refugee Resettlement
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act
SIJS	Special Immigrant Juvenile Status
TEP	Tuition Equity Provision (Virginia)
TPS	Temporary Protected Status
USCIS	U.S. Citizenship and Immigration Services (formerly INS)
USRAP	United States Refugee Admissions Program
VASA	Virginia Alternative State Aid Application

Abstract

Undocumented Mexican and Central American youth, many of whom hold approved or pending *Special Immigrant Juvenile Status (SIJS)*, *Deferred Action for Childhood Arrivals (DACA)*, and *Central American Minor Refugee and Parole Program (CAM)* applications, are a growing population in the United States who are eager to pursue higher education like their U.S. Citizen and U.S. Lawful Permanent Resident peers. Yet, they are significantly limited by federal, state, and institutional policies that are geared towards the success of students with legal status. Through relevant literature and interviews with policy experts and educators who work directly with these youth and/or the regulations that affect them, a better understanding of these U.S. immigration policies is formed, including their advantages, disadvantages, and quickly evolving nature.

Interviews with participants indicated the need to eliminate federal policies that restrict access to financial aid, to expand immigration policies geared toward Mexican and Central American youth, and to improve state and institutional regulations to provide tuition equity and scholarship access to all, regardless of immigration status. Determining ways to legally and ethically integrate Mexican and Central American youth into the immigration and higher education systems, and do so simultaneously, not only benefits these individuals but also U.S. American society by creating a more productive workforce and correcting existing racial and socio-economic imbalances.

Introduction and Description of Policies

In Fiscal Year 2021, the U.S. Border Patrol (BP) recorded higher than 1.6 million “encounters with migrants” at the U.S.-Mexico border, greater than four times the number of the prior fiscal year and also the highest annual total on record (Gramlich & Scheller, 2021). In March 2021 alone U.S. Customs and Border Protection (CBP) “apprehended nearly 172,000 people” (Ordonez, 2021). This number included “nearly 19,000 children and teenagers traveling without a parent—double the levels from February and the most ever in a single month” (Ordonez, 2021). Nevertheless, these figures only account for those migrants who actually came into contact with BP when crossing the U.S.-Mexico border. The total number of migrants crossing the border every month, including those who were not apprehended by BP, is likely much higher.

Of the large volume of immigrants crossing the southern border in Fiscal Year 2021, the highest number came from El Salvador, Guatemala, Honduras, and Mexico, with 39 percent aged 15-16 and 33 percent aged 17 years old (DHHS-ACF-ORR, 2021). See Appendix A: Unaccompanied Children Facts and Data. In addition, a smaller number of Mexican and Central American youth obtain immigrant visas, non-immigrant visas, or parole to enter the United States through official CBP Border Crossing Stations, including airports, shipping ports, and roadways. Mexican and Central American youth have been coming to the United States in droves for the past several decades and will continue to migrate here for the foreseeable future.

To better analyze the U.S. immigration policies discussed henceforth, one must understand why so many Mexican and Central American youth migrate to the United States. Geographically, Mexico lies south of the United States, followed by Guatemala, and then El

Salvador and Honduras which lay adjacent to each other and which both share a border with Guatemala to the north. See Appendix B: Map of Mexico and Central America.

The Mexico and Central America region faces ongoing challenges related to political and economic instability, organized crime, drug trafficking, environmental degradation, and limited educational opportunities. These factors continue to force people to travel north and seek a better life in the United States. According to Thornton (as cited in Borger, 2018), a sociologist focused on Mexico and Central America at Johns Hopkins University, “the destabilization in the 1980s—which was very much part of the U.S. cold war effort—was incredibly important in creating the kind of political and economic conditions that exist in those countries today” (para. 9). Each nation in the region has its own unique history, however, El Salvador provides a solid example of historical factors influencing migration.

From the 2000s to present day, gang-related conflict has only increased in El Salvador establishing heightened influence over the economy, national security, and elected officials. According to Watkins & Kohut (2018), “El Salvador has one of the highest homicide rates in Latin America—60 killings per 100,000 residents—and just one forensics lab to process evidence” (para. 13). The decades that followed the civil war of the 1980s have shown no decrease in violence, but rather new faces and forms by which atrocities are committed. This has caused another mass exodus of adolescents to flee their homeland and look for safety and opportunity in the north.

Consequently, large Mexican and Central American communities have formed throughout the United States, especially in southern California, Texas, Florida, New York, and the Washington D.C.-Maryland-Virginia area (Babich & Batalova, 2021). Yet, Mexican and Central American immigrants living in the United States have the lowest educational attainment

levels, with 54 percent of Mexicans completing less than high school, 26 percent graduating high school, 13 percent completing some college, and only 7 percent earning a bachelor's or more (Budiman, 2020). Of Central Americans, 47 percent have completed less than high school, 26 percent have graduated high school, 17 percent have completed some college, and only 11 percent have earned a bachelor's or more (Budiman, 2020). Data regarding the low educational attainment levels of Mexicans and Central Americans compared to other immigrant groups is presented in Appendix C: Educational Attainment among U.S. Immigrants, 2018.

This phenomenon presents a challenge for these youth since it is predicted that “as of 2018, higher education will be required for 62 percent of jobs in the U.S. and by 2025, there will be a shortage of 23 million people living in the U.S. with postsecondary education in the U.S. workforce” (Moore, Bridgeland, & Dilulio, 2010 as in Enyioha, 2019, p. 1). Additionally, in a study performed at the Georgetown Public Policy Institute's Center on Education and the Workforce it was determined that “By 2020, 65 percent of all jobs will require postsecondary education and training, up from 28 percent in 1973” (Carnevale et al., 2013, p.15). See Appendix D: Postsecondary Education and Training. The need for an advanced degree is increasing, nevertheless, undocumented students “are too often locked out of colleges, universities, and other institutions of higher education” (Perez, 2014, p. 4). According to Perez (2014), undocumented students' inability to pursue college means that “potential entrepreneurs, highly skilled workers, and middle-class consumers and taxpayers will not be there to grow our economy” (p. 4). Undocumented students are those who entered the United States without inspection or remained in the United States without authorization. They are most often of Mexican and Central American origin.

According to the U.S. Department of Education (2021) undocumented students do not qualify for federal financial aid. Moreover they may face difficulty obtaining in-state tuition, financial aid, and scholarships which can vary from state to state. Ngo and Astudillo (2019) state that “presently, only eight states—Texas, New Mexico, California, Colorado, Minnesota, Washington, Connecticut, and New Jersey—provide undocumented students with access to some form of state financial assistance” (p.5). These barriers to higher education mean that many Mexican and Central American youth remain poor and uneducated and are not able to improve their quality of life or that of their family members. This perpetuates the greater phenomenon of undocumented immigrants, Latinos, and people of color in general performing only low-income and manual labor professions.

Over the years U.S. immigration policies have formed to offer some opportunity for Mexican and Central American youth living in or coming to the United States. These include *Special Immigrant Juvenile Status (SIJS)*, *Deferred Action for Childhood Arrivals (DACA)*, and the *Central American Minors Refugee and Parole Program (CAM)*. Unfortunately, these programs offer limited or no immigration relief, take years to reach approval, and only help a small portion of Mexican and Central American youth. Also noteworthy is the proposed *Development, Relief and Education for Alien Minors Act (DREAM Act)* which has never become law but whose continued debate in Congress demonstrates the strong desire to grant permanent legal status and provide educational opportunities to Mexicans, Central Americans, and undocumented youth in general. With the pursuit of college as their route to overcoming poverty and improving their quality of life, it is essential to ask, How, if at all, do U.S. immigration policies affecting Mexican and Central American youth influence their access to higher education in the United States?

In the research that follows, this question is addressed through relevant literature and interviews with policy experts and educators. The review of SIJS, DACA, and CAM is a timely analysis as an increasing number of migrant youth cross the U.S.-Mexico border, the Biden administration advocates for improved policies through the Build Back Better Framework, CAM is disputed in court, the DREAM Act is brought before Congress again, and the state of Virginia announces its Tuition Equity Provision. Moreover determining ways to legally and ethically integrate Mexican and Central American youth into the immigration and higher education systems, and do so simultaneously, will not only benefit these individuals but also U.S. American society by addressing and correcting existing racial and socio-economic imbalances.

My name is Margaret Elizabeth Tejada and I am a Caucasian woman born in the United States who speaks Spanish fluently. As a former U.S. Peace Corps Volunteer from 2012 to 2014 in Panama, Central America and a Senior Legal Assistant for an immigration law firm in Silver Spring, Maryland for more than seven years, I am knowledgeable on the U.S. immigration policies and laws that affect Mexican and Central American youth. I work directly with Mexican and Central American youth affected by these policies and I have been continuously surrounded by Mexican and Central American culture and the Spanish language through personal and professional endeavors for more than ten years.

Stakeholders

Relevant stakeholders around this topic first include the Mexican and Central youth directly affected. Second, Mexican and Central American youth's family members are closely impacted by the decisions these undocumented students make while pursuing higher education. Third, high school staff closely influence undocumented students' access to college, specifically ESOL teachers, English teachers, guidance counselors, and college counselors. Fourth, academic

institutions like community colleges, public universities, and private universities, both affect and are affected by undocumented student's ability to study beyond high school. Fifth, federal, state, and local governments are involved since they must listen, consider, and adapt as undocumented students make their needs known with greater force and volume. Sixth, though immigration lawyers do not traditionally assist undocumented students with academic pursuits these attorneys are called on to advise undocumented students' immigration and employment options which influence access to higher education. Seventh, non-profit and other organizations providing pro-bono immigration services also advise undocumented youth on areas that affect higher education. Finally, prospective employers are relevant stakeholders in undocumented students' pursuit for higher education because they will employ these youth once they obtain their degrees and therefore must understand compliance with and proposed changes to U.S. immigration law as more highly educated and qualified undocumented students apply for jobs. In fact, private companies with large operating budgets may play a crucial role in advocating for large-scale immigration reform in future years.

Literature Review

Current literature on SIJS, DACA, and CAM highlights the unique struggles that Mexican and Central American youth face while pursuing higher education within the confines of U.S. immigration law, as well as specific suggestions to alleviate the challenges they face. For the purpose of this research, the term undocumented refers to immigrants in the United States who are primarily of Mexican and Central American origin. Some have obtained SIJS, DACA, or entered with CAM. Others have pending SIJS, DACA, or CAM applications. Even others may qualify for SIJS, DACA, or CAM but have not submitted applications. Finally others do not qualify for any of these options and are completely undocumented.

According to the National Immigration Law Center, an undocumented immigrant ‘is a foreign national who: (1) entered the United States without inspection or with fraudulent documents; or (2) entered legally as a non-immigrant but then violated the terms of his or her status and remained in the United States without authorization’ (as cited in San Jose State University, 2017, para 2) (Enyioha, 2019, p. 1)

Mexican and Central American youth with or without SIJS, DACA, or CAM fall into either of these categories. Policy experts and educators use the term undocumented to refer to immigrants who currently hold or qualify for DACA, SIJS and CAM or simply do not qualify for any program at all.

Barriers to Accessing Higher Education

Barriers that Mexican and Central American youth face reach far beyond their lack of immigration status, one of the largest issues being the inability to pay for college. U.S. Congress has passed three distinct laws that make it difficult for undocumented students to pursue university studies. These include the Title IV of the Higher Education Act (HEA), the Personal Responsibility and Work Opportunity Act (PRWORA), and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). The HEA of 1965 “requires that applicants for federal financial aid, including Pell Grants and the Federal Work-Study Program, be legal U.S. residents” (Perez, 2014, p. 5). The PRWORA and IIRIRA, both created in 1996, “worked to inhibit undocumented students from attaining postsecondary education” (Enyioha, 2019, p. 3) by restricting undocumented immigrants from receiving support from federal benefit programs including federal student aid. Additionally, the PRWORA and IIRIRA have quickened the deportation process and may allow state and local law enforcement authorities to perform immigration functions.

In response, noteworthy cases affecting undocumented students have been brought before federal and state courts; *Plyler v. Doe* (1982) ruled in favor of undocumented students attending K-12 schools in Texas; *Equal Access Education v. Merten* (2004) ruled against undocumented students attending public postsecondary institutions in Virginia, and *Martinez v. Regents of University of California* (2010) ruled in favor of in-state tuition for undocumented students attending public postsecondary institutions in California. Access to higher education is expanding but there is still much resistance from conservative lawmakers and anti-immigrant groups. With many still against them, Mexican and Central American youth pursuing college face a wealth of additional obstacles.

Much misinformation exists regarding access to higher education. “Many undocumented students incorrectly assume they cannot legally attend college in the United States” (College Board as cited in Perez, 2014, p.17). Some states do ban undocumented students from enrolling entirely including Alabama, South Carolina, and some college systems in Georgia (National Conference of State Legislatures as cited in Perez, 2014). However, being undocumented will generally not prevent one from being accepted to and enrolling in college. Instead, it is one’s lack of status that limits access to financial aid and influences tuition costs (NAFSA, 2020).

This is further complicated when institutions do not advertise information for undocumented students in visible and accessible places. “Very few institutions of higher education have their in-state tuition policies detailed on their websites, and even fewer have information regarding scholarships or financial aid options for undocumented students” (College Board as cited in Perez, 2014, p. 19). The inadequate dissemination of information results in many bright and academically driven students giving up the pursuit of college or never even applying.

The high cost of tuition is exacerbated by the difficulty accessing financial aid, limited employment opportunities, and financial responsibilities many undocumented students have towards their families. Specifically, banks are not likely to consider undocumented students for loans and usually the student and their undocumented parents need a U.S. Citizen or U.S. Lawful Permanent Resident to co-sign (Hernandez as cited in Perez, 2014). On the other hand, “private student-loan rates carry much higher interest rates” (L.A. Cash for College as cited in Perez, 2014, p. 21). In addition, private scholarships and loans are often temporary and as a result, many undocumented students will take a semester or year off from school to work and save money for current and future costs (Perez, 2014). These numerous financial obstacles lead undocumented students to remain in school for seven to ten years before obtaining a bachelor’s degree (Gonzales as cited in Perez, 2014). Consequently, the longer and more frequently students put their studies on hold, the less likely they will achieve their degrees.

The risks of sharing private information about their and their family members’ immigration status discourages many undocumented students from applying to college and scholarship opportunities. “Many students see community colleges or public schools as an extension of government entities” (Nienhusser & Dougherty as cited in Perez, 2014, p. 24). As a result, they fear that revealing confidential information may result in U.S. Immigration and Customs Enforcement (ICE) harassing, detaining, or deporting them altogether.

Navigating varying federal, state, local, and university-specific policies is complex and burdensome and “has left hundreds of thousands of undocumented students without a clear pathway forward” (Perez, 2014, p. 27). See Appendix E: Inconsistent State Laws. Without a clear understanding of what financial aid one qualifies for and without anyone to mentor them

through this process, many Mexican and Central American youth give up the dream of college and focus on full-time work, usually manual labor.

Undocumented students must “finance their higher education, find legal support, and maintain their physical and mental health while pursuing a degree with little or no support—essentially, by themselves” (Hernandez as cited in Perez, 2014, p. 26). They are often the first person in their families to pursue higher education and therefore carry the additional weight of navigating the university system on their own (Gildersleeve & Hernandez as cited in Perez, 2014). This burden can lead to mental health issues that are more frequent and serious than those affecting the average college student. This intensifies when their issues go unacknowledged, and staff lack the training required to properly support them.

Recommendations to Accessing Higher Education

Suggestions to reduce the many barriers undocumented students face apply to the federal, state, and institutional levels. In the United States, the pursuit of college starts in secondary school when students receive guidance from college counselors, take the SATs, and submit applications. Therefore, it is imperative that high school staff stay informed on fluctuations in immigration policy to be sure they can correctly guide undocumented students (Perez, 2014). Furthermore, developing partnerships between universities and local high schools will provide undocumented students with more consistent information when applying for college.

Holbrook (2017) calls educators to reflect on their legal and ethical obligations as counselors when considering undocumented students because “to not assist students with DACA/undocumented status could be defined as discrimination based on national origin” (p. 2). In addition, college counselors need to understand that undocumented students cannot obtain federal aid through the FAFSA, nevertheless, DACA recipients may mistakenly file the FAFSA

because they have received a Social Security number (Holbrook, 2017). For this reason, it is important for high school staff to learn the unique requirements and setbacks that undocumented students experience to better guide them through the college application process.

At the university level, it is recommended that institutions “create a more welcoming campus environment, expand financial aid opportunities for undocumented students, and admit more undocumented students” (Perez, 2014, p. 4). In terms of training staff, higher education institutions should provide specific financial aid counselors to speak to undocumented students and clearly post financial aid information on their websites (Perez, 2014). By requiring staff to participate in annual trainings on state-specific requirements related to tuition equity, colleges and universities will play a key role in increasing access for these undocumented youth.

Additionally, lawmakers should pass legislation “that allows undocumented students to qualify for publicly funded state education benefits” and “that requires professional development for high school and college personnel” (Perez, 2014, p. 3-4). If an increased number of states require educators to participate in annual college access trainings for undocumented students, they will “expand college access to all immigrant youth, not just undocumented students, and will address the need for guidance on matters of postsecondary education” (Perez, 2014, p. 30).

At the federal level, Perez (2014) recommends that Congress repeal Section 5050 of the IIRIRA which includes “the prohibition on states granting in-state tuition rates to undocumented students” (p. 3). If enacted it will override the need for tuition equity laws in individual states. Perez (2014) further believes that future immigration reform should eliminate all bans on access to Pell Grants, the Federal Work-Study Program, and federal student loans because these benefits form a large percentage of how students pay for college and therefore all students should have equal access. In fact Perez (2014) urges Congress to pass broad immigration legislation that

creates a pathway to citizenship for undocumented youth based on secondary school completion as its academic requirement rather than an advanced degree because higher education is so difficult for undocumented students to achieve.

Policy Analysis

A closer look at SIJS, DACA, and CAM highlights their similarities, differences, merits, and shortcomings. These three policies are presented in chronological order according to when they were first established.

Special Immigrant Juvenile Status (SIJS)

Policy Formation, Goals and Objectives

In recognition of the violence that many children face before, during, and after immigrating to the United States, Congress created *Special Immigrant Juvenile Status* (SIJS) as part of the Immigration and Nationality Act (INA) in 1990 to function “as a form of relief for undocumented or foreign-born children living in the United States who had been abused, neglected, or abandoned” (Joseph, et al., 2017, p.1). Originally geared towards immigrant children in long-term foster care, SIJS later expanded to include “immigrant children who have suffered abuse, abandonment, or neglect perpetrated by a parent” (Joseph, et al., 2017, p.1) and to allow children with approved SIJS applications to file *Form I-485 Application to Register Permanent Residence* or the Green Card application.

Implementation

According to The People’s Law Library of Maryland (2022), to qualify for SIJS, the child must 1) be present in the United States, 2) be under 21 years old (or under 18, depending on the

state court), 3) be unmarried, 4) be unable to reunify with one or both parents due to abandonment, abuse or neglect which occurred before the child's 18th birthday, 5) be unable to return to their country of nationality, 6) be declared dependent on a state court or be placed under the custody of an agency, entity or individual (most often the non-abusive parent). The child and their non-abusive parent must testify in court to convince the state court judge to sign the Custody and SIJS Eligibility Findings Orders. These orders are required to file *Form I-360 Petition for Special Immigrant Status* with USCIS and later, the Green Card application.

The challenge that arises is two-fold. First, many SIJS eligible youth are detained by CBP when entering at the U.S.-Mexico border and consequently have a separate deportation case with the Executive Office for Immigration Review (EOIR) commonly known as immigration court. This puts the pending I-360 SIJS Application at risk if the undocumented youth does not continue to report to immigration court hearings and file timely motions to postpone deportation.

Second, the Immigration and Nationality Act (INA) has put a limit on the number of people who can apply for certain immigration benefits each year. Since there is, and has been for many years, such a high number of SIJS applicants from Mexico, El Salvador, Guatemala, and Honduras, there is a lengthy waiting period for these applicants to be able to file their Green Card applications even if their I-360 SIJS Applications have been approved. The progress of this waiting period is indicated on the U.S. Department of State's (DOS) monthly Visa Bulletin found online.

According to The End SIJS Backlog Coalition (2021), an organization formed to advocate on behalf of SIJS youth, "currently children from Mexico and the Northern Triangle (El Salvador, Guatemala and Honduras) face 2–3-year backlogs, leaving them in legal limbo and without real permanent protection" (p. 1). Their inability to legally work or access federal

financial aid for college prevents these youth from achieving their full potential and prolongs dependence on legal services as well as state and local resources.

Outcomes

In response to this challenge The End SIJS Backlog Coalition (2021) recommends that “Congress end the SIJS backlog by amending the Immigration and Nationality Act to exempt SIJS children from visa limitations” (p. 2). Congress has yet to comply with this request but USCIS did extend some hope on March 7, 2022, by offering Deferred Action to Special Immigrant Juveniles starting on or after May 6, 2022 (USCIS, 2022). This means that DHS may postpone any deportation proceedings against applicants with approved I-360 SIJS applications and allow them to file *Form I-765 Application for Employment Authorization* or apply for a work permit and subsequently, a Social Security number. This expanded feature will improve the quality of life for Mexican and Central American youth who qualify for SIJS, nevertheless, the SIJS program’s eligibility criteria are narrow and the process is tedious and slow.

Deferred Action for Childhood Arrivals (DACA)

Policy Formation, Goals and Objectives

DACA is an executive branch memorandum created on June 15, 2012 by President Obama to defer DHS from deporting undocumented immigrants who entered the United States as children (American Immigration Council, 2021). When filing *Form I-821D Consideration of Deferred Action for Childhood Arrivals*, applicants may also submit Form I-765 to apply for a work permit and subsequently, a social security number. This program neither grants legal status nor provides a path to the Green Card. DACA merely postpones any action by DHS to deport its recipients and provides a legal means to work while in the United States. DACA is valid for

three-year periods and renewal applications must be filed in a timely manner to maintain continuous employment authorization.

Since its inception DACA has been frequently disputed by policy experts as to whether it is legal or not. According to USCIS, (2021, “DACA”) “On July 16, 2021, the U.S. District Court for the Southern District of Texas held that the DACA policy ‘is illegal’” (para. 1). Nevertheless, based on the terms of the DACA policy in effect prior to September 5, 2017, and in accordance with the Court’s December 4, 2020 Order (USCIS, 2021, “DACA”), USCIS will,

- Accept first-time requests for consideration of deferred action under DACA;
- Accept DACA renewal requests;
- Accept applications for advance parole documents;
- Extend one-year grants of deferred action under DACA to two years; and,
- Extend one-year employment authorization documents under DACA to two years

Therefore, it appears that if eligible one may currently file a new or renewal DACA application with USCIS.

Implementation

According to Perez (2014) DACA applicants must meet the following criteria:

- Have no lawful immigration status;
- Be at least 15 years old;
- Been born on or after June 16, 1981;
- Have come to the United States before their 16th birthday;
- Have continuously lived in the United States since June 15, 2007;
- Been present in the U.S. on June 15, 2012 and on every day since August 15, 2012;
- Have graduated high school or obtained a GED certificate, be an honorably discharged veteran, or currently attend school on the date the application is submitted;
- Not been convicted of a felony offense;
- Not been convicted of a significant misdemeanor offense or three or more misdemeanor offenses; and,
- Not pose a threat to national security or public safety

In November 2014, modifications were made to DACA to include individuals who were born before June 15, 1981 and who have continuously lived in the United States since January 1,

2010. In addition, DACA was made valid for three-year increments instead of two years (Perez, 2014).

Outcomes

The impact of DACA on undocumented immigrants in the United States has been immense with approximately 3,240,017 DACA applications approved between August 15, 2012, and December 31, 2021 (USCIS, 2022, “DACA”). Moreover, as of December 31, 2021, the countries with the highest number of active DACA recipients were Mexico with 494,220, El Salvador with 23,620, Guatemala with 16,100, and Honduras with 14,670 (USCIS, 2022, “DACA”). Nevertheless, policy experts claim there are many DACA-eligible immigrants who never applied to this program out of fear of deportation or inability to pay the filing fees. These DACA-eligible immigrants who never applied, as well as other childhood arrivals who did not meet the DACA criteria, are often referred to as “DREAMers”.

According to the American Immigration Council (2021), DACA has allowed qualified young adults to legally work, attend school, and plan their lives without the constant threat of deportation. Additionally, “the average hourly wage of respondents increased by 86 percent after receiving DACA” (American Immigration Council, 2021, para. 4). Wong and Valdivia (as cited in Perez, 2014) note that “since the enactment of DACA, 70 percent of survey respondents reported getting their first job or starting a new job” and that “45 percent reported increased job earnings” (p. 11). The ability to earn and save money has made it significantly easier for DACA recipients to pay for college tuition and related costs.

Some states and institutions have DACA-specific policies. For example “DACA recipients are treated differently under Alabama law and can enroll in community colleges at in-state tuition rates and in the state’s eight public colleges and universities” (Hispanic Interest

Coalition of Alabama as cited in Perez, 2014, p. 12) even though other undocumented students are banned from enrolling. Whereas in Georgia “the state Board of Regents decided that all undocumented students, including beneficiaries of DACA, would be treated the same” meaning that DACA recipients are also banned from enrolling in the state’s higher education institutions (Board of Regents of the University System of Georgia as cited in Perez, 2014, p. 13). Therefore, access to the work permit, Social Security number, and some financial aid options do offer DACA recipients more support. Yet, there is no path to the Green Card for DACA and varying state and institutional policies continue to cause great confusion.

Central American Minors Refugee and Parole Program (CAM)

Policy Formation, Goals and Objectives

In 2014 the *Central American Minors Refugee and Parole Program (CAM)* was created by President Obama to allow “certain qualified children who are nationals of El Salvador, Guatemala, and Honduras, as well as certain family members of those children, an opportunity to apply for refugee status and possible resettlement in the United States” (USCIS, 2021 “CAM”, para. 1). The program’s goal is to help Central American youth escape dangerous conditions in El Salvador, Guatemala, and Honduras and to reduce illegal entries at the U.S.-Mexico border by providing an alternative to dangerous overland migration.

Unlike SIJS and DACA, which are handled solely by USCIS, CAM is managed by a collaboration between the U.S. Department of State (DOS), USCIS’ United States Refugee Admissions Program (USRAP), and a network of U.S.-based refugee resettlement organizations.

In 2017 President Trump terminated CAM. However, a court ordered DHS “to continue processing parole cases that had already received conditional approval” (Greenberg, et. al., 2021, p. 2). Under President Biden, CAM has been re-opened in two phases. Phase One includes addressing pending cases that had not reached completion (i.e., an interview) when the program was terminated by President Trump. Phase Two allows new CAM applications to be filed under USCIS’ updated guidelines as of September 13, 2021 (DOS, 2021, “CAM”).

Implementation

To qualify for CAM, one must 1) be physically present in and be a national of El Salvador, Guatemala, or Honduras, 2) be under the age of 21, 3) be unmarried, and 4) have a parent physically and legally present in the United States under one of the following categories;

- Lawful Permanent Resident status,
- Temporary Protected Status (TPS),
- Parole,
- Deferred Action,
- Deferred Enforced Departure,
- Withholding of Removal,
- Pending Asylum Application (filed before May 15, 2021), or
- Pending U Visa Application (filed before May 15, 2021)

In some cases family members of the CAM applicant may also be given access to this program. During processing if the CAM applicant meets the criteria for refugee status the applicant may apply for the Green Card after one year. If, however, the applicant is ineligible for refugee status, the CAM applicant may be considered for parole. Parole does not lead to a permanent immigration status, but it does allow one to lawfully enter the United States, live here temporarily, and apply for work authorization. Parole is usually approved for a three-year period (USCIS, 2021, “CAM”).

Outcomes

Though CAM offers both the refugee and parole routes, it is difficult to obtain refugee status since one must prove “persecution or fear persecution due to race, religion, nationality, political opinion, or membership in a particular social group” (USCIS, 2022, “Refugees”, para. 1). Additionally one must follow strict instructions from USCIS and the respective U.S.-based refugee resettlement organization which many refugees around the world may have difficulty accessing and contacting. Therefore CAM faces ongoing criticism. According to Greenberg et al. (2021), before CAM resumed in 2021 the program “allowed more than 4,000 children and qualifying relatives to enter the United State as refugees or parolees” (p.1) but this was a small amount in compared to the need. Greenberg et al. believe that “it is doubtful that the CAM Program will ever be able to assist more than a small fraction of children who face danger in northern Central America” (p. 1). Nevertheless if modifications are made the program may assist a significantly greater number of children seeking relief and family reunification.

A basic comparison of the SIJS, DACA, and CAM Programs is found in Appendix F: SIJS, DACA, and CAM Comparison Chart.

Primary Research

In addition to the above policy analysis, policy experts and educators were invited to participate in this research through one-on-one, semi-structured interviews. The researcher followed a list of pre-prepared interview questions to guide the conversation but also allowed participants to naturally elaborate on related topics as desired. Interviewees were able to adequately share their knowledge and expertise through what felt like candid conversations.

Participants and Sampling

A mix of convenience, snowball, and purposeful sampling were used to ensure that the research was completed in a timely manner and conveyed a diverse group of participants associated with varying organizations, positions, and political affiliations. Through the researcher's professional work as the Senior Legal Assistant at an immigration law firm for more than seven years and through attending networking events offered by her graduate school, she was already aware of and in contact with high schools, community colleges, universities, think tanks, non-profit organizations, and private law firms focused on immigration and higher education issues affecting Mexican and Central American youth. By reaching out to professional acquaintances, the researcher found interested participants or was put into contact with someone who referred interested participants.

Participant Description

The eleven participants interviewed held job titles including; former Attorney, Staff Attorney, Media Director, Director of Regulatory Affairs and Policy, Attorney and Director – Immigration Law Project, former Family and Community Engagement Liaison, Associate Director of Community Engagement, Counsel and Director of Immigration Policy, and admissions counselor. All participants were fluent in English and possessed knowledge of U.S. immigration law, higher education enrollment and tuition policies, and policy implications for Mexican and Central American youth living in the United States and pursuing higher education.

Methods of Data Collection

The researcher met with each participant virtually or by phone on one occasion only. Participants were asked a series of questions about their knowledge of federal, state, and institutional policies affecting Mexican and Central American youth and how this influences

access to higher education. See Appendix G: Interview Guide. Interviews lasted approximately fifteen to seventy-five minutes, depending on the participants' availability. Ten of the eleven interviews were recorded, based on the participants' consent.

Informed Consent and Credibility

Each participant was sent the Participant Informed Consent Form via email before starting the interview to ensure adequate time to review the form and ask questions. Participants were given the option to use a pseudonym and omit their organization affiliation. Participants indicated their consent in writing or verbally at the beginning of each interview. Throughout the research process, the researcher referred to her graduate institution's Human Subjects Research Policy Manual and contacted her Academic Advisor to guarantee compliance with the highest ethical standards possible. To ensure the credibility of research findings, information from the primary and secondary data gathered was used to justify any conclusions made. Additionally, the researcher's work was reviewed by her Academic Advisor throughout each step of the process and before submitting the final paper.

Limitations and Delimitations

This research initially focused on U.S. immigration policies affecting Central American youth but expanded to include those of Mexican background, since the secondary research indicated that Mexican youth are also affected by U.S. immigration policies and access to higher education. However, a more inclusive approach would have been to specifically inquire about Mexican youth when conducting the interviews with policy experts and educators because the focus was more on Central American youth.

Only policy experts and educators in Washington D.C., Maryland, Virginia, and New York were interviewed. These are areas with large Mexican and Central American communities and therefore there is much awareness, advocacy, and support for undocumented students as compared to other regions on the United States. A more balanced approach would have been to also reach out to policy experts and educators in states that have lower Mexican and Central American populations, for example, Alabama, Georgia, and South Carolina.

Findings

The U.S. immigration policies mentioned thus far largely influence educational attainment yet provide no clear path for Mexican and Central American youth to pursue higher education. Conversations with policy experts and educators led to a variety of perspectives and sub-topics for further consideration.

History and Complexity of U.S. Immigration Law

All eleven participants acknowledged that U.S. Immigration law is a complex system which many struggle to understand, especially those directly affected by its policies and regulations. All eleven participants agreed that U.S. immigration law is a controversial topic.

Policy expert Robert Law works as the Director of Regulatory Affairs and Policy at the Center for Immigration Studies (CIS) in Washington, D.C. Law previously worked at USCIS, under President Trump as the Chief of Office of Policy & Strategy. Law explained that there is much misinformation and emotion put out by the media but that the essential question is whether an immigrant fits under an eligibility criteria. Law believes that frequently emotional stories take precedence over qualifying criteria (Personal communication, September 24, 2021).

Former immigration attorney John Riely has 35 years of experience serving clients in the greater Washington D.C. area. Riely worked as a trial attorney for Immigration and Naturalization Services (INS) from 1984 to 1985. He noted the emotions undocumented Central Americans experience when being ordered deported. “You could see the desperation in their eyes, the fear, the uncertainty, poverty” (Personal communication, November 19, 2021).

Policy expert Ira Mehlman has worked as the Media Director at Federation for American Immigration Reform (FAIR) for approximately twenty years. Mehlman believes that “Ultimately, it is the responsibility of those countries themselves to address the inequities that leads to so many people leaving”. FAIR criticizes undocumented immigration and claims that by focusing on the well-being of the immigrant, one fails to consider the effects on U.S. society. “We do recognize, at least passively, that while immigration always benefits immigrants, there are other interests and people who are damaged by unchecked immigration (Personal communication, Ira Mehlman, September 24, 2021).

Policy expert Heather Stewart works as Counsel and Director of Immigration Policy at NAFSA: Association for International Educators (NAFSA). Stewart emphasized the disconnect between lawmakers in Congress and the immigrants coming to the United States in current and recent years because “their formative years were at the time of low levels of immigration” and this has led to “preconceived notions and misunderstandings” when dealing with Central Americans (Personal communication, September 28, 2021).

Jennifer Riddle, Staff Attorney on the Training and Legal Support Team at Catholic Legal Immigration Network, Inc. (CLINIC), believes that our immigration laws “do not respond to contemporary realities of who is coming here, needs to come here, or wants to come here”

Riddle found that “you're often advising people that don't have any relief because there is no path for a lot of populations to get status” and that this can be very frustrating (Personal communication, August 27, 2021).

Though U.S. immigration law is emotional and complex, Mehlman believes that “it should serve definable public interest” (Personal communication, September 24, 2021).

Conversations with policy experts and educators on how SIJS, DACA, and CAM are implemented, highlighted the merits and shortcomings of these programs.

Federal Policies

Special Immigrant Juvenile Status (SIJS)

All eleven participants, whether policy expert or educator, were familiar with Special Immigrant Juvenile Status. Nevertheless educator Kathy Garcia, who works as an admissions counselor at a community college in Maryland and who has direct contact with Mexican and Central American youth was not always sure what immigration application an undocumented student had applied for until the student presented immigration paperwork to assess eligibility for financial aid (Personal communication, November 3, 2021).

Riddle has handled both the state court and immigration component of SIJS cases and explained that this process “cuts across different legal niches”. She emphasized that SIJS can be challenging depending on where the attorney is admitted to practice law and whether the attorney has both the family law and immigration law knowledge. Riddle explained that “sometimes it's a hurdle to even convince them to do this. They're like, why are you here? Why should I help this undocumented person?”. Riddle observed “a lot of ignorance and hostility towards that client population” which made the SIJS process quite challenging (Personal communication, August 27, 2021).

Riddle also noted that differing definitions of a child makes SIJS difficult because “there's different state laws about who can fall into the family court system and that doesn't mesh right with the immigration law side” (Personal communication, August 27, 2021). Many states consider a child to be under 18 years whereas U.S. immigration law considers it under 21 years.

Riely also faced challenges convincing a state court judge to sign the SIJS Eligibility Order and was told that the evidence he presented did not indicate that the parent abandoned the child but rather only demonstrated that the parent was impoverished. In response Riely re-submitted his SIJS cases to a different court within Maryland. Riely explains that “You can file a case anywhere in Maryland if it involves custody. So, we brought all our Prince George's County cases over to Montgomery County a couple of years ago. And they approved them all” (Personal communication, November 19, 2021). In fact the Circuit Court for Montgomery County, Maryland has facilitated the SIJS process by providing information on their website explaining how to petition for SIJS to the family court (Montgomery County, MD Circuit Court, n.d.).

Even so the SIJS process falls short in providing a supportive path for Mexican and Central American youth to pursue higher education in the United States because the parent granted custody is normally unlawfully present and the law indicates that SIJS applicants, even after receiving the Green Card, may never submit an immigration petition for this parent. This puts SIJS recipients at an even further disadvantage because an unlawful parent who has no route to the Green Card is much less capable of providing the financial, academic and logistical support than a U.S. Citizen or U.S. Lawful Permanent Resident parent. Stewart explained that “there's a divide in the United States between people who have parents who went to college and are available to help through the process and those that don't have that” (Personal

communication, September 28, 2021). This adds to the numerous barriers that undocumented students face.

Deferred Action for Childhood Arrivals (DACA)

DACA was well-known by all policy experts and educators. Nine of the eleven participants explicitly stated they had previously or currently work with DACA recipients. Though DACA was instituted to postpone the removal of undocumented youth from the United States, the participants noted many defects in this program.

A long-standing criticism of DACA is the ongoing argument as to whether this executive action introduced by President Obama in 2012 was illegal or not and whether USCIS should continue to accept initial and renewal DACA applications. On July 16, 2021, Judge Hanen in Texas ruled that DACA is illegal (Benenson, 2021). In response to this decision Riddle noted that “until and unless it's codified by federal legislation via Congress passing a DREAM Act, it's just not stable. People can't rely on it” (Personal communication, August 27, 2021). The controversy is that this executive order allowed an entire class of people, in this case childhood arrivals, to qualify for Deferred Action versus individuals based on specific circumstances. Ira Mehlman believes the latter is correct and claimed that “If a president can say, I don't like the laws that are on the books so I'm simply going to ignore them. That leads us down the slippery slope of dictatorship in four-year increments (Personal communication, September 24, 2021).

Policy expert Saba Ahmed is a Staff Attorney at American University's DREAM Initiative which works to reduce immigration status as a barrier to higher education. Ahmed acknowledged the insecurities of DACA's temporary nature and stated that the life of a DACA recipient “just moves in these two-year increments” (Personal communication, November 11, 2021). Many students find this incredibly stressful and are not able to make long-term plans like

their U.S. Citizen or LPR peers. Furthermore, DACA recipients do not have any legal status. Heather Stewart explained that “if you have a status then you have a legal foothold here and they don't” (Personal communication, September 28, 2021). This chronic limbo is the predicament DACA creates.

A feature of the DACA program is the ability to apply for Advance Parole which allows the recipient to travel outside the United States for a certain period and to lawfully re-enter. Even though USCIS is currently accepting applications for Advance Parole for DACA recipients based on humanitarian reasons (USCIS, 2021, “FAQs – DACA”), Stewart emphasized that it is still dangerous for DACA recipients to leave the United States because “it could be totally unrelated to your Advance Parole, but they might not let you back in because of Covid, Title 42” (Personal communication, September 28, 2021). Nevertheless those that did take the risk had powerful experiences while studying abroad with their respective institutions.

People were able to travel to Central America and see their families. There are people that got to see their grandparents—they knew them when they were children, two years old, but hadn't seen them and they were the connection for their parents to see their parents (Personal Communication, Heather Stewart, September 28, 2021)

Family reunification in the context of academic travel allowed DACA recipients to develop their own identities as young adults, an experience that their U.S. Citizen and LPR counterparts may take for granted.

Central American Minors Refugee and Parole Program (CAM)

Four participants specifically stated they are not knowledgeable on CAM and are unable to make any comments. Three participants who explicitly said they are knowledgeable on CAM criticized its ineffectiveness. Riddle said that a person who fears for their life should not have to

wait for months in Central America to undergo refugee screening. This means the program is not being executed efficiently and not helping everyone who needs the assistance (Personal communication, August 27, 2021).

It is more likely that a CAM applicant be granted parole but this is temporary and does not lead to the Green Card. Riddle explains that with CAM you receive a work permit but that you have to renew your parole every two years and for several years these applications “would just sit in the district office for months and months” causing CAM recipients’ parole and employment authorization to lapse (Personal communication, August 27, 2021). Without a valid work permit, CAM recipients can lose their jobs or be forced to work without authorization, limiting future paths to the Green Card.

Robert Law further criticized CAM which he described as focused on allowing illegal aliens in the U.S. to bring their family members (Personal communication, September 24, 2021). Similarly Ira Mehlman stated that “Somehow it becomes the responsibility of the United States to reunite families that members of the family have voluntarily broken up” (Personal communication, September 24, 2021). Nevertheless Stewart believes that “we just need to maintain life and be able to find ways to get people here safely” and that if the CAM program is able to do that “and have the support structure in the United States” then it should be utilized (Personal communication, September 28, 2021).

In conclusion, federal policies were largely criticized by participants for not being effective and not connecting undocumented students to educational opportunities. Riely noted that “I don’t see much by way of policies that provide impetuses to have Central Americans pursue education. Certainly not higher education”. Instead Riely believes that these policies encourage Mexican and Central American youth to work while in the United States, even if only

temporarily (Personal communication, November 19, 2021). Educator Silvia Reyes, who works as an admissions counselor at a community college, considers this “a loss for us as a nation because we are a nation of immigrants and we're not giving everybody a fair chance” (Personal communication, December 16, 2021).

State and Institutional Policies

During conversations with participants it became clear that regardless of whether a Mexican or Central American youth was an SIJS, DACA, or CAM recipient the ability to enroll, qualify for in-state tuition, and access financial aid was largely influenced by the tuition equity laws in the respective state.

Mehlman referred to the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) and explained that “any state that offers in-state tuition to illegal aliens has to make that same offer available to any legal U.S. resident, regardless of state of residence”. Mehlman criticized states that adapted to this federal law by determining eligibility based on residency and high school attendance rather than the student’s immigration status. Mehlman claimed that the IIRIRA’s intent was to discourage states from enacting “loop-hole” policies. Mehlman emphasized that when states allow undocumented students to enroll in and pay in-state tuition at public institutions, “somewhere in that state another student isn't getting in” (Personal communication, September 24, 2021).

In some states and institutions, there are DACA-specific policies that permit enrollment and in-state tuition. Robert Law believes that it is unjust to allow an illegal alien living in a certain state to receive a lower tuition rate than a U.S. citizen on the other side of the country or

even in the next state over. Law believes that any tuition discount should be offered universally not specifically for the DACA population (Personal communication, September 24, 2021).

Educator Beth Davis previously worked as the Family and Community Engagement Liaison at a high school in Prince George's County, Maryland and is a doctorate candidate studying schools for newcomer immigrants in the United States. Davis explained that the Maryland DREAM Act allows DACA students to get "some state funding and financial aid" but that this is "an incredibly complicated process and multi-step" (Personal communication, November 5, 2021). In fact the Maryland DREAM Act, which became law on December 6, 2012, offers in-state tuition to any undocumented student who complies with the following criteria, 1) attended a Maryland high school, 2) graduated from a Maryland high school or received a Maryland GED, and 3) registered within six years after graduating from a Maryland high school or receiving a Maryland GED (Montgomery College, n.d.). Additionally, as of September 2019 the Maryland State Financial Aid Application (MSFAA), is accepting applications from undocumented students as long as they comply with certain state residency and academic requirements (CASA of Maryland, n.d.).

Kathy Garcia noted that after her undocumented students submitted the MSFAA "they were told they were on a waiting list to see if any more money became available, but they didn't get any of the funding". Garcia believes this is because "our state is not putting enough money into those funds to serve the community or the state". Garcia explained that this has happened before because she has been working at the same institution for six years (Personal communication, November 3, 2021).

Like Maryland, the state of Virginia has also made strides for undocumented students. The Tuition Equity Provision (TEP) which began in July 2020 allows undocumented students to

apply for in-state tuition. According to Silvia Reyes, Virginia's TEP "was a huge improvement in terms of being able to afford college". Moreover in August 2022 Virginia will announce additional legislation regarding state financial aid for undocumented students which will, "allow them to apply for financial aid and even institutional aid". Along with this will come the Virginia Alternative State Aid (VASA) Application which will be used to collect information on Estimated Family Contribution so that financial aid offices can determine what aid a student can receive. Reyes described this new legislation as "a game-changer" for undocumented students pursuing higher education (Personal communication, December 16, 2021).

When applying for financial aid, Davis noticed that "students who had DACA typically still applied for FAFSA even knowing that they wouldn't get any support" since the private scholarships want to know that they were officially told they do not qualify before they allow access to other funds. Davis criticizes this policy which discourages students "knowing that they have no access to this resource that their peers do". This process takes an emotional toll on these students and is problematic for undocumented families because the FAFSA requires they include their parents' information (Personal communication, November 5, 2021).

State and Institutional policies were criticized by participants for being unfair to U.S. Citizen and LPR students or for creating "this whole subcategory of students that go through the same process but don't have the same rights or access to resources that they need to make college possible" (Personal communication, Beth Davis, November 5, 2021). The latter further impedes Mexican and Central American youth's access to higher education and quality of life.

Higher Education

Students

The ability to obtain and maintain employment authorization greatly influences an undocumented student's success in college. It also separates students who have SIJS, DACA, and CAM from those students who are completely undocumented. In addition to obtaining a Social Security number, a work permit "allows them to work on campus or even access prestigious internships" (Personal communication, Saba Ahmed, November 11, 2021).

Institutions like American University in Washington D.C. have contracts with companies and government agencies to offer students work opportunities. Those students who lack a valid work permit cannot participate in this program which significantly influences their academic path.

An undocumented student with no work permit is not working on-campus or in an office but instead "at restaurants under the table, the midnight shift and then getting up and having to go to classes" (Personal communication, Saba Ahmed, November 11, 2021). Physically demanding jobs with nighttime schedules adversely affect the quality of these students' lives and consequently their ability to continue pursuing a degree.

Barriers

Barriers that Mexican and Central American youth face when pursuing higher education were mentioned by nine of the eleven participants. During these nine interviews, a large focus was the multiple and complex obstacles these students experience with financial limitations being the greatest issue. Educator Silvia Reyes explained that "no matter how many things are available to them" many students must stop out for financial reasons (Personal communication, December 16, 2021).

Misinformation is another challenge that begins at the high school level when counselors tell undocumented students they cannot pursue college. Students become "demoralized" because no one knows how to help them (Personal communication, Kathy Garcia, November 3, 2021).

Further many undocumented students “get passed over in terms of college access work that’s happening at schools and supporting first generation students”. Davis believes that this is “biased and the system’s just not working” (Personal communication, November 5, 2021).

Misinformation is exacerbated by educators’ lack of training and the language barrier that many undocumented students face. At the high school in Prince George’s County, Maryland where Davis previously worked, she was one of two Spanish-speaking staff with a student body of over 2,000. Davis explains that “There’s a large number that really needed support in Spanish and that was not available” (Personal communication, November 5, 2021).

At the same high school, English course levels were used to determine who would receive college preparation information. Davis realized that “If you start as a newcomer, your last year as a senior isn’t in Senior English, it’s in 10th Grade English” (Personal communication, November 5, 2021). This policy overlooks undocumented students who are often English language learners and results in their losing out on any college preparation.

Educator Kathy Garcia recalled an undocumented student who had to stop studying when his father was injured at work and took on all of the household financial responsibilities. Garcia described him as “an honors student”. Garcia went on to say “It happens with a lot. And these are gifted students. They’re not students that are just getting by. These are A students. The ones that are very dedicated” (Personal communication, November 3, 2021).

Positive Stories

Despite the immense barriers that undocumented students face, there are students who triumph against these odds. Silvia Reyes describes one highly motivated student who had a 4.0 grade point average and was involved in extracurricular activities. This student quickly finished her associates at community college and transferred to George Mason University to complete her

bachelor's degree in neuroscience. Afterwards the student was accepted to several medical schools and is now studying at George Washington University as an entirely undocumented student. Reyes explained that her "perseverance and resilience" have made it possible to acquire funding throughout the years (Personal communication, December 16, 2021).

Beth Davis describes a student with SIJS who was a teen parent and also in the foster care system. She had a social worker who was "hands-on and continues to push her while she's in college". She received free financial aid because she was in foster care and did not have to pay for any tuition. Additionally, she was able to live with her foster mom until she was 21, so she did not have to pay for rent. Davis said "So much was stacked against her, but she had so many more resources because of her foster status" (Personal communication, November 5, 2021).

Kathy Garcia worked with an undocumented student who was able to secure a full scholarship at Johns Hopkins University to study engineering. Garcia said "there's definitely a lot of success stories and this is what motivates me to stay in this job" (Personal communication, November 3, 2021).

Institutions

Administrative Conflict

Receiving undocumented students on-campus and advocating for improved policies can be controversial for academic institutions. Private institutions may have the freedom to use their own discretion, whereas public institutions must follow state law. Even if a public institution allows undocumented students to enroll, advocating for improved institutional policies may be challenging. Heather Stewart explains that public universities "are either unable to make a statement on policy or their members of Congress disagree" (Personal communication,

September 28, 2021). This predicament prevents progress for universal access to higher education and highlights the need to elect more pro-immigrant lawmakers.

Higher Education Association Membership

In the absence of political support, membership in higher education associations like American Council on Education (ACE), Association of Public and Land-Grant Universities (APLU), and Council on International Education Exchange (CIEE), can aid in advocating for undocumented students, in addition to guidance on immigration matters. As reputable organizations that conduct public policy advocacy, research, and other initiatives, these HE associations are well-versed in current affairs affecting academic institutions and their students.

Heather Stewart works at NAFSA which is one such HE association in Washington, D.C. Stewart explained that when issues arise that an institution's administration is not experienced in handling, they "turn to their associations to say, what's going on? What's coming down the pike?". Even so, bottom-up advocacy efforts are necessary on campus and that is what happened with DACA. Stewart explained that "It was the students on campuses that demanded that their associations—their institutions understand what was happening and that it was important to them" (Personal communication, September 28, 2021).

Overlap

U.S. immigration law and higher education access are two fields with increasing overlap. Jennifer Riddle observed this through her work at Catholic Legal Immigration Network (CLINIC) advising community-based immigration law providers. Riddle explained that providers ask her about higher education matters but "It's college counselor meets immigration lawyer. You don't necessarily have that holistic knowledge" and that often times "the youth

themselves are getting passed around from one person to another and nobody's able to help them comprehensively” (Personal communication, September 24, 2021).

Similarly at American University’s DREAM Initiative Saba Ahmed found that “when I’m meeting with clients I’m not just doing legal work, I end up doing a lot of social work” (Personal communication, November 11, 2021). It is not uncommon for undocumented immigrants to ask their immigration lawyer about social services or ask an academic counselor about legal matters since they are often unsure where to turn to for help when seeking basic services necessary to live a normal life in the United States.

Recommendations

Based on the review of the policies mentioned and conversations with policy experts and educators, below is a list of actions that can be taken to improve access to higher education for Mexican and Central American youth in the United States.

Federal Policies

Congress should rescind Section 5050 of the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) which prohibits undocumented students from receiving any postsecondary education benefit unless every U.S. citizen is eligible to receive the same benefit. If this is enacted, individual states will no longer need to establish tuition equity laws based on residence and academic requirements.

Additionally, Congress should eliminate all bans on access to Pell Grants, the Federal Work-Study Program, and federal student loans so that the U.S. Department of Education (ED) can extend these services to undocumented students. These benefits help a large portion of students pay for college and should be accessible to everyone.

Special Immigrant Juvenile Status (SIJS)

Congress should amend the Immigration and Nationality Act (INA) to exempt SIJS applicants from visa limitations, allowing them to file the I-360 SIJS application concurrently with the Green Card and work permit applications so that they can more quickly access work and financial aid opportunities like their U.S. Citizen and LPR peers.

Congress should further amend the INA to allow SIJS applicants to submit immigration petitions for their non-abusive parent once they become U.S. Citizens. Their own quality of life and academic success will increase by having a parent with permanent legal status.

Deferred Action for Childhood Arrivals (DACA)

Lawmakers should continue to promote the passing of a DREAM Act which allows legalization for the DACA population based on a high school or GED educational requirement that they can fulfill during or after approval. Additionally, U.S. Citizenship and Immigration Services (USCIS) and ED should partner to provide DACA recipients with an educational card that allows them to receive a certain amount of federal financial aid and scholarships.

Central American Minors Refugee and Parole Program (CAM)

The Department of State (DOS) and USCIS' United States Refugee Admissions Program (USRAP) need to better collaborate to streamline and facilitate refugee screening and adjudication so that more CAM applicants can enter the United States as refugees and subsequently apply for the Green Card. Additionally, DOS and USCIS should expand the CAM program to include Mexican youth.

State Policies

States should provide social workers to function as personal advocates for undocumented high school students who want to pursue higher education since social workers know how the legal system works, what resources are available, and what paperwork is required to apply for college and financial aid.

States should also require public universities and community colleges to form partnerships with local high schools and their staff to provide a clear path forward for undocumented students. One option would be asking an organization like the President's Alliance on Higher Education to develop and deliver trainings on the information presented in their online Higher Ed Immigration Portal which provides state-specific information on tuition equity laws and financial aid for undocumented students.

Institutional Policies

High schools, community colleges, and universities need to create more welcoming environments and provide more accessible information to undocumented students pursuing college. Specifically, institutions need to train their staff on SIJS, DACA, CAM, fluctuations in immigration law, and state-specific tuition equity policies. At both the secondary and post-secondary levels, schools need to link their offices on campus to create a network of support for undocumented students, i.e., ESOL Department, College Counseling, Admissions, Financial Aid, and Student Life. High schools need to reevaluate their policies on equating English course level with college access information since this excludes many undocumented students.

Finally, universities should create bachelors and master's degree programs that focus on the overlap of higher education access and U.S. immigration law, or a combination of majors and minors that address this. The overlap of these two fields is becoming a field of study in and of

itself and will continue to gain increased attention as more undocumented students pursue college. The United States needs academic professionals to study and analyze ways to integrate and improve the immigration law and HE systems.

Further Research

This research analyzed three U.S. immigration law policies and addressed tuition equity policies specific to the states of Maryland and Virginia. Further research could be conducted to compare undocumented students' access to higher education in all states and territories in the United States. Specifically, the research could determine if state laws are becoming more inclusive or exclusive of undocumented students and in which areas of the country. This could be compared to the size of the Mexican and Central American population in the respective state. Additionally, it would be relevant to further investigate community colleges as a route to aiding undocumented youth in the pursuit of higher education. Community colleges are generally more accessible to the undocumented community since they cost less and are staffed by community members who often speak Spanish.

Conclusion

Current U.S. immigration policies and laws do not address the reality of immigrants coming to and present in the United States, especially the large undocumented population. The exact number of undocumented immigrants in the United States is difficult to calculate but Camarota and Ziegler (2022) estimates that there were 11.35 million unauthorized immigrants as of January 2022. When conducting criminology research, Light (as cited in Moyer, 2020) found that undocumented immigrants have lower arrest rates for felonies than both legal immigrants and U.S. citizens. Therefore, as law-abiding members of society who attend school or work full-

time jobs, it is unlikely that they will be deported because “at a minimum, mass deportation would cost the nation \$114 billion” (Wolgin, 2015) and this is likely estimated at more in recent years. Most undocumented immigrants will remain in the United States for the indefinite future.

However, maintaining a large undocumented population puts national security at risk and makes it more difficult for both federal and state governments to prosecute criminal offenses, collect payment of taxes, and enforce compliance with other legal obligations, like child support. Additionally, this circumstance creates an enormous socio-economic imbalance that damages economic progress for the United States as a whole because more autonomous and educated members lead to a more productive society.

Moreover, Article 26 of the United Nation’s Universal Declaration of Human Rights (1948) states that “higher education shall be equally accessible to all on the basis of merit” and that “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms”. Consequently, the U.S. federal and state governments should neither discriminate students for their lack of immigration status nor prevent them from pursuing their full development. Undocumented Mexican and Central American youth in the United States are pursuing higher education despite the many obstacles they face. It is time for our policies to change to better support them in this endeavor.

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Appendix A: Unaccompanied Children Facts and Data

Age breakdown of unaccompanied children by fiscal year (October 1 — September 30)

Age	FY2021	FY2020	FY2019	FY2018	FY2017	FY2016	FY2015	FY2014	FY2013	FY2012
0-12	16%	16%	16%	15%	17%	18%	17%	21%	14%	11%
13-14	13%	12%	12%	12%	13%	14%	14%	16%	13%	11%
15-16	39%	37%	37%	37%	37%	37%	38%	36%	40%	39%
17	33%	35%	35%	35%	32%	31%	30%	27%	34%	38%

(DHHS-ACF-ORR, 2021)

The top three countries of origin shifted from FY2017, with the highest percentage of children in FY2018 coming from Guatemala, followed by Honduras and El Salvador.

Country of Origin	FY2021	FY2020	FY2019	FY2018	FY2017	FY2016	FY2015	FY2014	FY2013	FY2012
Honduras	32%	25%	30%	26%	23%	21%	17%	34%	30%	27%
Guatemala	47%	48%	45%	54%	45%	40%	45%	32%	37%	34%
El Salvador	13%	14%	18%	12%	27%	34%	29%	29%	26%	27%
Mexico	1%	6%	2%	3%	<3%	3%	6%	<2%	3%	8%
All other countries	7%	8%	5%	<5%	3%	2%	3%	<3%	5%	4%

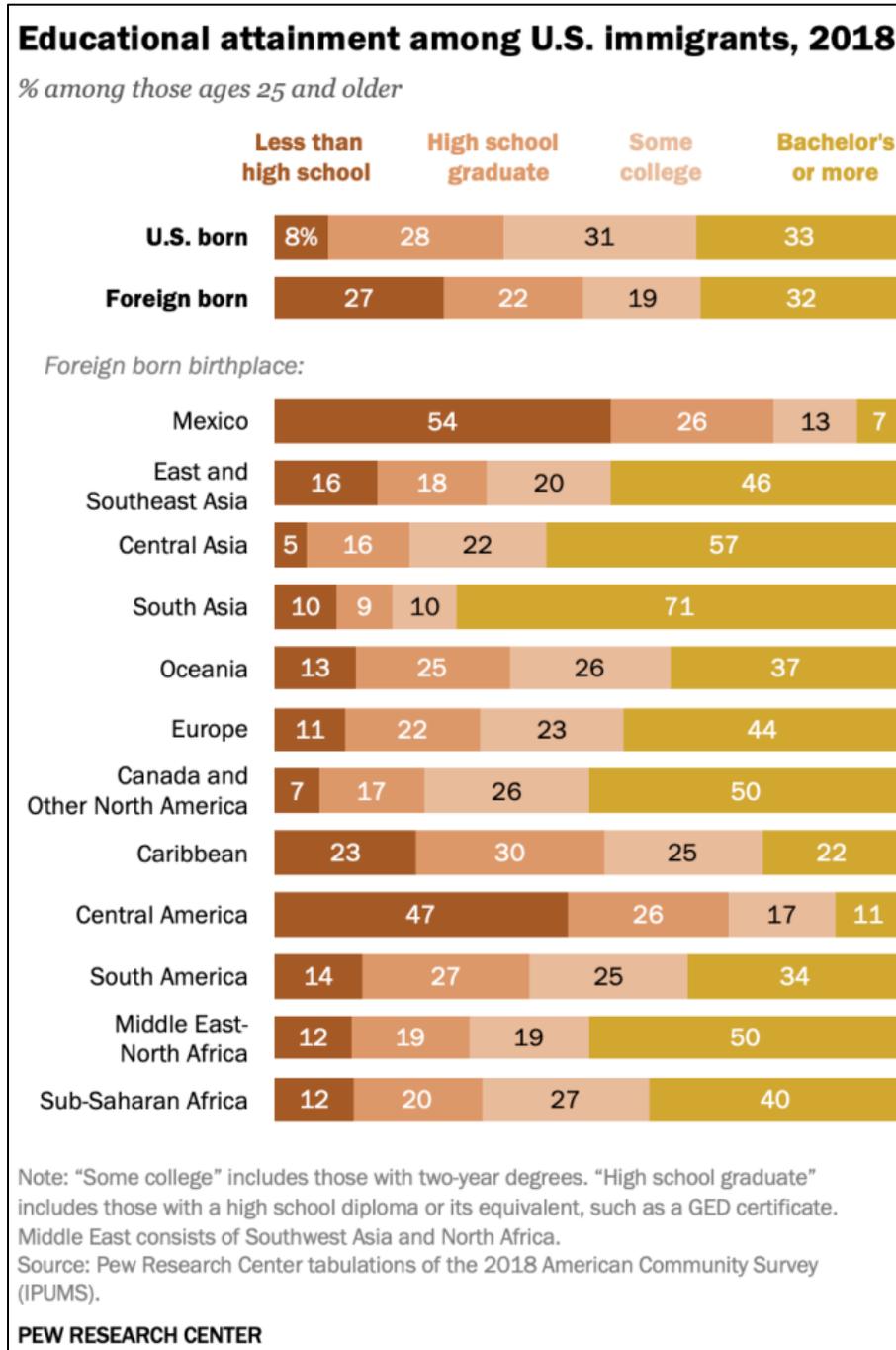
(DHHS-ACF-ORR, 2021)

Appendix B: Map of Mexico and Central America



(TimeMaps, n.d.)

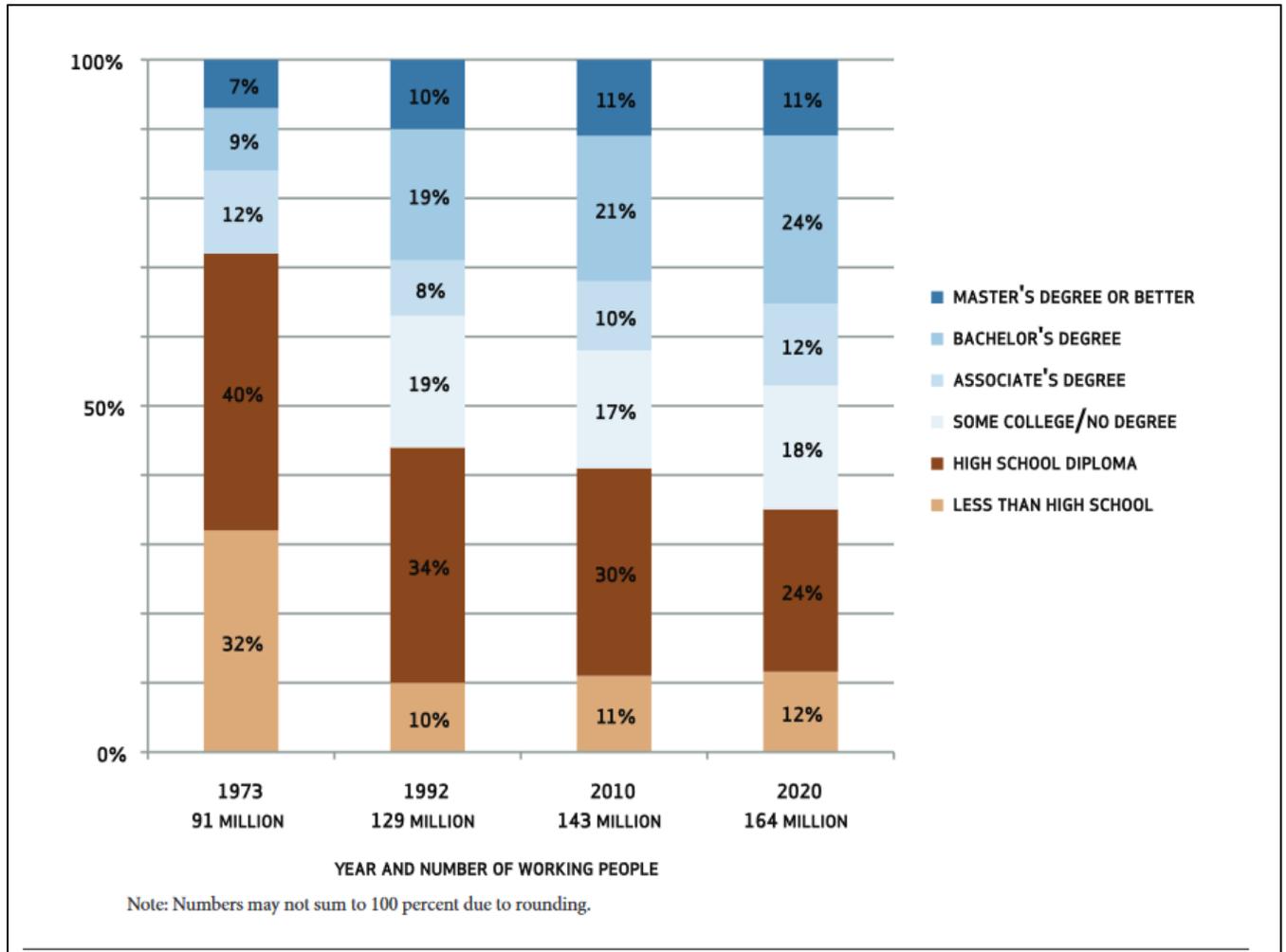
Appendix C: Educational Attainment Among U.S. Immigrants, 2018



(Budiman, 2020)

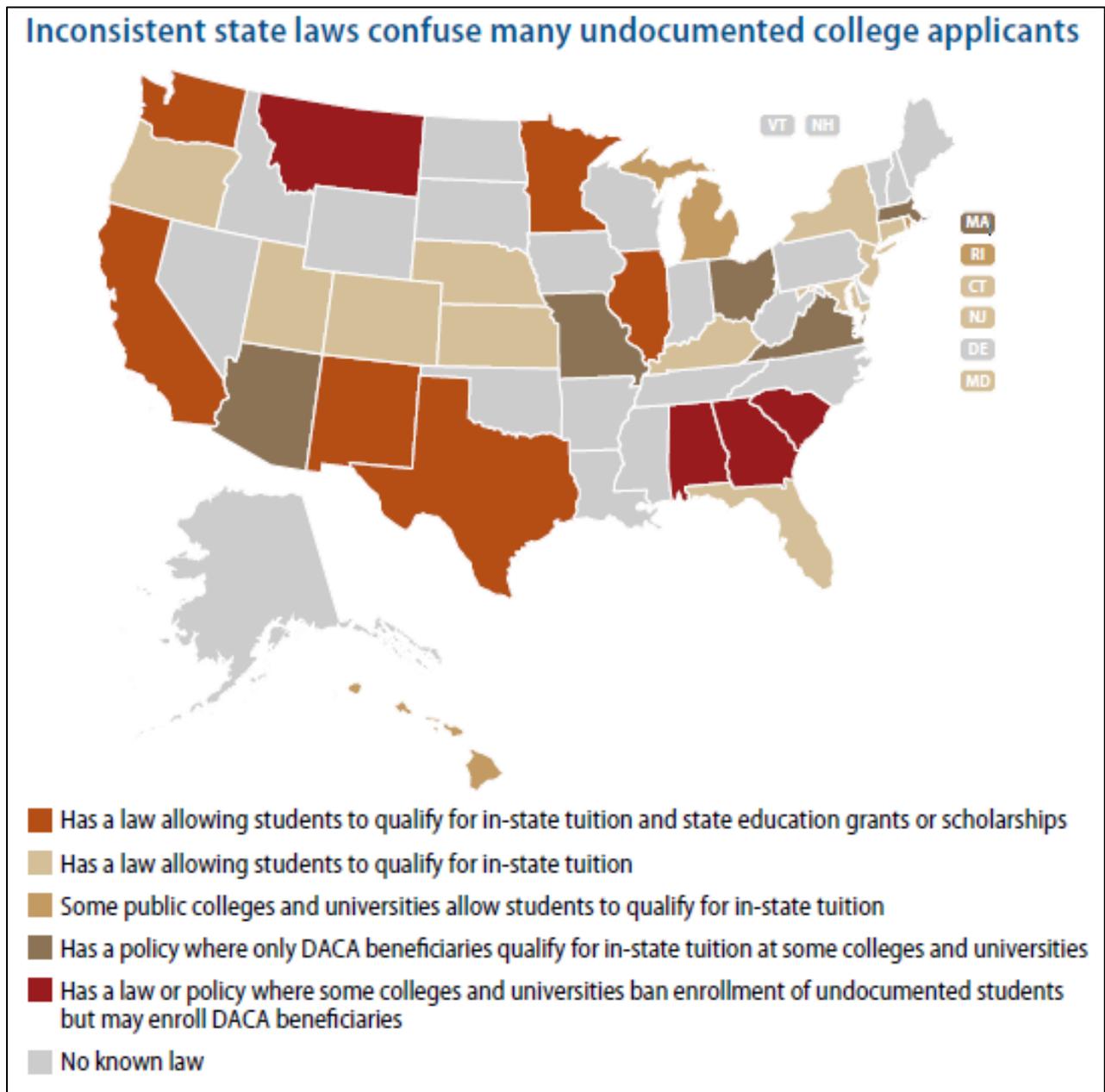
Appendix D: Postsecondary Education and Training

By 2020, 65 percent of all jobs will require postsecondary education and training, up from 28 percent in 1973.



(Carnevale et al., 2013, p. 15)

Appendix E: Inconsistent State Laws



(Perez, 2014, p. 7)

Appendix F: SIJS, DACA, and CAM Comparison Chart

	Path to the Green Card?	Eligible to Apply for Work Permit?	Eligible to Apply for Renewal?	Eligible for Federal Financial Aid?
SIJS	Yes.	As of May 2022, yes if granted Deferred Action once I-360 is approved.	No, but may file I-485 once Priority Date is current on Visa Bulletin.	No.
DACA	No.	Yes.	Yes.	No.
CAM	If granted Refugee Status, yes. If granted Parole, no.	Yes.	No, but if granted Refugee Status may file I-485 after 1 year. If granted Parole, may apply for Re-Parole.	No.

Appendix G: Interview Guide

1. What is your name and job title?
2. What is the name of your employer, organization, or agency?
3. How long have you been in this position?
4. What do your job responsibilities entail? What does an average day look like for you?
5. What is your favorite and least favorite part of this position?
6. What interests or previous experiences led you to this field?
7. What knowledge of U.S. immigration policies and laws do you have? (i.e., Special Immigrant Juvenile Status (SIJS), Deferred Action for Childhood Arrivals (DACA), Central American Minors (CAM) Parole Program, or the proposed Development, Relief and Education for Alien Minors (DREAM) Act)
8. With which U.S. immigration policies or laws are you most familiar? In what capacity have you analyzed or implemented these policies or laws? (i.e., to pass legislation, to determine applicant eligibility, to assist applicants in filing applications, to assist students in applying for admission to a community college or university, to assist students in applying for financial aid, etc.)
9. Have you ever worked directly with Central American youth? In what capacity?
10. Do you believe that current U.S. immigration policies allow Central American youth adequate access to higher education opportunities? Why or why not?
11. Could you share any significantly successful or challenging stories of Central American youth who pursued higher education? (No names should be shared.) What happened? What was the outcome?
12. Is there any additional information you would like to share with me?