

Understanding Undocumented Student Education Policies: The Effects of Restrictive Education Policies and How Educators Can Provide More Access to Higher Education

Joaquín Luna was a high school student from Mission, Texas who dreamed of becoming a civil engineer. When Joaquin was only 6 months old, his parents took him and his siblings and made the long and dangerous journey to cross the border into the United States. He grew up in Mission, Texas, spoke fluent English and excelled at academics at Juarez-Lincoln High school. To his peers and his teachers, he had a bright future ahead of him. But there was just one problem, Joaquin was undocumented.

As he started looking at college applications, Joaquin "hit the wall." After discovering that his options for higher education were slim due to his legal status, he became severely depressed. The emotional turmoil that his dream was unattainable weighed heavily on him. He feared that his lack of social security would prevent him from going to school and one day becoming a civil engineer. Even more agonizing, he feared that even if he made it to college, his lack of social security would prevent him from getting a job after college. On November 25, 2011, almost one year after the DREAM ACT's failure to pass the Senate, Joaquin put on his best suit, said goodbye to his loved ones and committed suicide. (Fernandez, NY Times)

In his notebook containing his last words, Joaquín wrote: "Dear sir, forgive me for what I am going to do tonight. Jesus, I have realized that I have no chance of becoming a civil engineer, as I have always dreamed of here. So, I plan to go see him and help him build the new temple in

heaven.” (Luna, *The Dream Is Now*) Two days later, Joaquin received an acceptance letter from the University of Texas Pan-America.

THE ISSUE

Joaquin's story is not uncommon. Many undocumented students eventually hit a wall when they look toward their future in higher education. Too often, undocumented students are advised by their high school counselors to either abandon higher educational opportunities, or to begin their higher education at community colleges. I myself have been a victim of misinformation and lack of resources.

As an undocumented high school student, I was stuck in an education system that provided virtually zero resources or support for their Latino population. The sad reality for many qualified undocumented students is that they are often times not supported by counselors and educators within the public-school systems. Unfortunately, there is a lack of understanding behind higher education for undocumented students, and that is that they do not have access to educational and financial opportunities due to their legal status.

So where do counselors and educators get this idea? And how can we educate them and provide them with the tools and resources necessary to better guide undocumented students? When I graduated high school in 2010, a revised version of the Development, Relief, and Education for Alien Minors (DREAM) Act that would later pass in the House was just barely on the horizon. Lack of resources available could have definitely been applicable then. However, today undocumented immigrant students have more opportunities to access higher education now, than I did then; despite Georgia's modern day education segregation.

As of March 2020, roughly 21,000 Deferred Action for Childhood Arrivals (DACA) recipients live in the state of Georgia. So, what are the resources and tools being provided to educators to

guide their undocumented students towards higher education in this new era of possibility. Now more than ever, it is crucial that we begin to educate and provide educators with the knowledge and tools necessary to work with undocumented students effectively in order to overturn systemic inequalities.

WHAT IS DACA?

In 2001, the Development, Relief, and Education for Alien Minors (DREAM) Act was first introduced. The DREAM Act would have provided a pathway to citizenship for undocumented immigrants who came to the United States when they were children. Eligible undocumented immigrants would have to prove the following: that they have entered the United States before the age of 16 and have lived in the United States for five consecutive years; that they graduated from a high school in the United State or obtained their GED; that they demonstrate good moral character; and finally, that they pass a criminal background check. (American Immigration Council, The Dream Act)

The Dream Act would have provided thousands of undocumented students the ability to not only access financial resources to aid in their pursuit for higher education, but also allow them to work legally in the United States. In 2010, a revised version of the DREAM Act was introduced in the House and passed, giving thousands hope for the first time in nine years. Sadly, it failed to pass in the Senate, short of only just five votes. The silence was deafening for many waiting just outside the steps of Capitol Hill, as they hung their heads in defeat and mourned the loss of their futures.

In 2012, as a direct response to the failure to pass the DREAM Act, President Barack Obama initiated an immigration policy through executive order known as, the Deferred Action for Childhood Arrivals (DACA). DACA provides eligible undocumented immigrant students with a

two-year deferment from deportation actions and would provide them with eligibility for a work permit; DACA would **not** provide a pathway to citizenship. (Georgetown Law, DACA and The Dream Act)

Among the various qualifications of DACA, similar to the DREAM Act, undocumented immigrants applying for DACA would have to prove that they entered the United States before the age of 16; lived in the United States since June 15, 2007; were currently in school or have graduated or obtained a certificate from a high school in the United States or obtained their GED; and had not been convicted of a felony or significant misdemeanor(s) and do not pose a threat to public safety or national security. To date, seventeen states offer in-state tuition to undocumented immigrant students by state legislative action, including DACA recipients. Georgia is not one of them. (NCSL, Tuition Benefits for Immigrants)

WHAT ARE THE BARRIERS FOR ACCESS TO HIGHER EDUCATION IN GEORGIA?

Georgia is one of the harshest states to live in, in terms of access to higher education for undocumented students. Prior to the passing of DACA, in 2011, Georgia not only barred undocumented immigrant students from receiving in-state tuition benefits, but it also banned undocumented students from attending its top five public universities, which included: The University of Georgia, The Georgia Institute of Technology, Georgia State University, Medical College of Georgia and Georgia College & State University. (NCSL, Tuition Benefits for Immigrants) (University System of Georgia)

Today, three out of those five universities still bar undocumented immigrant students from attending. They are The University of Georgia, The Georgia Institute of Technology and

Augusta University, home to the Medical College of Georgia. While all three institutions are highly respected, the issue for attainment of higher education for undocumented students has become quite clear- it is not just a lack of access to certain universities in the state of Georgia, such as Georgia Tech, the University of Georgia and Augusta State University; but also, the misinformation that is preventing them from attending equally respectable institutions.

In an interview with Raymond Partolan, who is currently a paralegal for Kuck Baxter Immigration LLC and former DACA recipient, he broke down some of the work that he has done to actively lobby against these barriers. Prior to his work at Kuck Baxter Immigration LLC, Raymond worked for a non-profit organization called “Asian Americans Advancing Justice-Atlanta”. For three years, Raymond lobbied at the State Capitol to push legislation at the state level, in order to provide undocumented students with in-state tuition eligibility. Their goal was to convince Congress to pass a law that would require the University System of Georgia and the Technical College System of Georgia to allow DACA recipients to pay in-state tuition rates, not including the universities of which they are banned from attending.

In 2013, Raymond was a plaintiff in a lawsuit against the Board of Regents of the University System of Georgia that claimed they were violating the law by not granting in-state tuition eligibility for DACA recipients. Raymond explained that, according to the Department of Homeland Security, DACA recipients are lawfully present in the United States. “They say that DACA recipients are lawfully present in the United States, in so far as they are not accruing unlawful presence. So, when everyone is not accruing unlawful presence, they are lawfully present.” (Raymond Partolan) Therefore, by this designation of the Department of Homeland Security, the University System of Georgia was in violation of its own policy that would grant in-state tuition to those lawfully present in the United States.

While the plaintiffs lost the initial lawsuit at the trial court level, they appealed to the Georgia Court of Appeals, where they won. The University System of Georgia then appealed to the Georgia Supreme Court, where the plaintiffs lost on a legal technicality called, “sovereign immunity”. Sovereign immunity limits the ability of private citizens to sue their government. “Losing that case really didn’t have anything to do with the actual merits of the case itself, but just the fact that the Georgia Supreme Court ruled that we didn’t have the standing to sue the government in that particular case.” (Raymond Partolan)

Most recently, Raymond had testified in the House Higher Education Committee after Representative Casey Carpenter proposed a bill that would provide in-state tuition eligibility to DACA recipients. While it passed out of committee, the proposed bill never made it to Senate. The work that Raymond and organizations like, Asian Americans Advancing Justice-Atlanta, is proof that while we continue to battle for in-state eligibility, educators can still provide students with pathways to higher education. Ultimately, the responsibility is falling on them.

BRIEF HISTORY OF GEORGIA'S SEGREGATED EDUCATION

Sadly, Georgia has a long history with education segregation. Since the passing of Brown v. Board of Education, Georgia has consistently allowed methods of lawful segregation to proceed in their education system. For example, Georgia is one of 43 states to have enacted “school choice” and voucher programs that allow public funds to be diverted to private schools, under the premise of improving education for African-Americans and Latinos.

In 1961, Governor Vandiver proposed to repeal race-specific laws that would resist de-segregation of the school systems in the state of Georgia. He said, that every child in Georgia had a “God-given right to freedom of association” and that his new proposed amendment would

secure "the constitutional rights of school children to attend private schools of their choice in lieu of public schools" through public financing. (Suits, Southern Spaces)

In other words, he not only used private education as a means of limiting children of color from attending schools with white children; but he also effectively diverted public funding to predominantly white private schools, leaving little funding left for public schools with people of color. This form of segregation has been ongoing since *Brown v. Board of Education* and has proven to thrive as a lawful way to block or deter children of color from attending predominantly white private schools.

Today, Latinos are now the largest underrepresented group within the United States Public School System and many of these Latinos are first generation students attending predominantly white high schools. While diversity within the Atlanta Public School system is growing, measures of isolation put in place have led to the expansion of education segregation into the suburbs of Atlanta, leading to many educational challenges for Latino students. Georgia's history of education segregation has paved the way and evolved into what is known today as, modern day segregation.

As stated previously, Georgia's higher education system is restrictive for Georgia's undocumented student population. These restrictive education policies have put in place barriers to access higher education with both admission and tuition policies for undocumented students, thus continuing this model of systemic racism.

DEGREE ATTAINMENT IN THE LATINX COMMUNITY

In a study conducted by the Education Trust that analyzed the gaps in degree attainment among Black, Latino and White adults at state and national levels; the study showed that the gaps in

degree attainment for Latino adults grows higher, specifically with higher education. The largest gap found, when analyzing White and Latino students who were successful in obtaining a bachelor's degree, was that roughly 23.7% of white students successfully attaining a bachelor's degree, while only 11% of Latino students were successful in achieving the same goal. Similarly, on a graduate level, 13.4% of white students successfully attaining a Master's degree, while only 5% of Latinos were able to successfully attain a Master's degree. (Nichols & Schak, Education Trust)

Data shows that Latinos in the United states are attaining fewer college degrees, likely as a result of various disadvantages that they face in their education system; such as, discrimination, prejudice, less funding and resources and fewer school counselors. Ultimately, all of these factors play a role in educators' abilities to help undocumented students. "These systemic barriers can only be addressed through interventions and policies that prioritize eliminating racial and ethnic disparities, especially those that stifle opportunities for first- and second-generation Latino Americans." (Nichols & Schak, *Education Trust*.)

In another study conducted by Kenny Nienhusser, it was revealed how education facilitators and their lack of knowledge regarding undocumented immigrant policies has played a large role in denying access to higher education for undocumented students. Upon interacting with educators during their college applications process, undocumented students were met with various microaggressions that deterred them from accessing higher education. These microaggressions included limited information of college choices for undocumented students, insensitive behaviors and college choices that did not take into consideration their legal status. (Nienhusser, *Johns Hopkins University Press*.)

These patterns of misinformation have led to low graduation rates within the Latino population.

Additionally, many Latino students often do not attain higher education post high-school, opting to work low wage jobs, leaving little room for social mobility. According to the American Immigration Council, of the 24% of immigrant population in the United States, approximately 10.7 million of those immigrants were undocumented. Of that 10.7 million, 400,000 undocumented immigrants lived in the state of Georgia. Of that 400,00 population of undocumented immigrants in Georgia, it was estimated that while 22% were successful in obtaining only a high school diploma, 25% had less than a high school diploma.

This data shows that of the entire undocumented immigrant population in Georgia, the number of students who did not graduate from high school was in fact, larger than the number of students who did graduate high school. The question is, why is it that the percentages of both these populations make up almost half of the students who never made it to college?

Now more than ever, degree attainment is essential in surviving in today's economy and has become necessary in order to help minorities with social mobility. It is our responsibility to help these undocumented students access higher education, despite the barriers that have been put in place to block them from attaining higher education. We as a community must begin to take action to break the cycles of misinformation and provide our educators with the resources and tools necessary to overcome these barriers.

COMMUNITIES IN SCHOOLS

So, where do we begin to create this dialogue between educators and undocumented students?

After speaking with Rigoberto Rivera at Communities in Schools (CIS) Atlanta, I came to the realization that ultimately, the work begins within the communities. Rigoberto has worked in the non-profit sector for 10 years, specifically in the education field. During our interview, Rigoberto

discussed how there is an overall lack of information for all parties involved; from the parents to the students, all the way to educators within the education system.

Rigoberto discussed the effects that COVID-19 has had on low-income families, many of which undocumented students belong to. He said that this disease brought to the forefront the issue of access to education, that is not limited to higher education by any means. On the contrary COVID-19, has proven that many families do not have the resources necessary to access education outside of school. Many of these students do not have a lap top or access to the internet, both of which limit their access to education. For most of these families, this particular time has been a battle of survival, in which they have to decide what is most important; paying their bills or getting an education.

He admits that while it is difficult to provide these sorts of resources to both families and educators, it is not impossible. Since the failure to pass the DREAM Act and consequently, DACA's implementation, organizations in Atlanta have begun to take action to provide resources for both the students and educators in the education system. Previously at his work at AGAPE Youth and Family Center, Rigoberto worked directly with families to provide them these tools that they so desperately needed to ensure that their kids could succeed in school through after school programs. Through these programs, they established relationships with both the students and their parents to ensure success for all.

Currently, at CIS Atlanta, they have started a new program called "Latinxellence." Latinxellence is a program designed to provide necessary information to counselors and educators in the education system, so that they can better understand how to work with undocumented students. CIS Atlanta are providing educators with a tool called "asset maps" that can help them aid undocumented students and their families towards a more successful future. For example, many

of these families need resources such as, legal aid, financial aid, housing, transportation and overall guidance for school registration. The purpose of this tool is to serve as a guide to help undocumented students and their families with resources needed outside of school, but that can ultimately affect their access to education. “It’s hard work, but it’s good work.” (Rigoberto rivera, CIS Atlanta)

Latinxellence is currently launching in four school districts: Atlanta Public School, Clayton County Schools, DeKalb County Schools and Fulton County Schools. CIS Atlanta works with more than 44,000 students a year. In just these four districts alone, there are 57 schools. Their goal is to eventually implement Latinxellence into schools where there are large numbers of Latinx students and immigrants. The idea being that if they can train and provide educators with these tools and resources to help undocumented students, they will not need to consistently reach out to other organizations to help them work with these students.

Through this program, educators can begin to understand the opportunities for undocumented immigrants and can provide more access to higher education. When approached by undocumented students in their schools, educators will have the resources necessary to help them throughout the college application process, rather than misguiding or not having the necessary information to help them at all. “I always tell them; the possibility is there. The only difference is, your journey will be very different.”

CALL TO ACTION:

Ultimately, this research is the first step in bridging the gap between educators and students. Once we understand why these educators are inadvertently misguiding Latino students (both undocumented and first generation), be it a lack of knowledge or a lack of resources available to

them, we can begin working towards providing them with the necessary knowledge to mentor and advise undocumented students towards higher education. By helping educators in the PK12 system understand the opportunities and resources offered to undocumented students, we can begin to train them so that they can understand how to work with undocumented students in their schools.

Equally as important, is that understanding these issues can help to provide schools and educators all over the state of Georgia with more resources provided by outside organizations that can help aid them in building brighter futures for Latino children. By creating a more intentional bridge between school systems and organizations, such as AGAPE and CIS Atlanta, we can amplify their outreach to more schools and more Latino students across the state of Georgia and ultimately provide undocumented students with the necessary resources to attain higher education. Through this bridge, we can aim to break the cycle of misinformation spread to undocumented immigrants all over the state of Georgia and help provide them with more opportunities for higher education.

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