



INTERNATIONALIZATION AND IMMIGRATION REFORM

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OBJECTIVES

- Historical Context
- Case Law
- Recommendations
- Conclusion

ABSTRACT

Due to immigration reform, institutes of higher education (IHE) have seen a decrease in the number of international students studying abroad and a threat to educating Deferred Action for Childhood Arrival (DACA) students. Research will focus on the historical context of internationalization, case law and conclude with recommendations for IHE.

HISTORICAL CONTEXT HIGHLIGHTS—THE NUMBERS



2017 "Fast Facts"

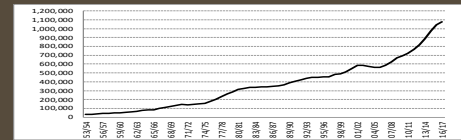
INTERNATIONAL STUDENTS IN THE U.S.

NEW INTERNATIONAL STUDENT ENROLLMENT

2011/12	228,467	New international student enrollment — students enrolling for the first time at a U.S. institution in fall 2016 — decreased by 3.3% over the previous year.
2012/13	250,920	
2013/14	270,128	
2014/15	293,766	
2015/16	300,743	
2016/17	290,836	

INTERNATIONAL STUDENT TRENDS

In 2016/17, the number of international students in the U.S. increased by 3.4% to 1,078,822 students.



	Total Int'l students	% change	U.S. higher education total*	% Int'l
2005/06	564,766	-0.1	17,487,000	3.2
2006/07	582,984	3.2	17,672,000	3.3
2007/08	623,805	7.0	18,248,000	3.4
2008/09	671,616	7.7	19,103,000	3.5
2009/10	690,923	2.9	20,428,000	3.4
2010/11	723,277	4.7	20,550,000	3.5
2011/12	764,495	5.7	20,625,000	3.7
2012/13	819,644	7.2	21,253,000	3.9
2013/14	886,052	8.1	21,216,000	4.2
2014/15	974,926	10.0	20,300,000	4.8
2015/16	1,043,839	7.1	20,264,000	5.2
2016/17	1,078,822	3.4	20,185,000	5.3

*Data from the National Center of Education Statistics

TOP U.S. STATES HOSTING INTERNATIONAL STUDENTS

	2015/16	2016/17	% change
1 California	149,328	156,879	5.1
2 New York	114,316	118,424	3.6
3 Texas	82,184	85,116	3.6
4 Massachusetts	59,436	62,926	5.9
5 Illinois	50,327	52,225	3.8
6 Pennsylvania	48,453	51,129	5.5
7 Florida	43,462	45,718	5.2
8 Ohio	37,752	38,680	2.5
9 Michigan	33,848	34,296	1.3
10 Indiana	29,219	30,600	4.7

The Institute of International Education (IIE) has conducted an annual census of international students in the U.S. since its founding in 1919. Known as the Open Doors Report since 1954, and supported by the Bureau of Educational and Cultural Affairs of the U.S. Department of State since 1974, the report provides detailed data on student flows into and out of the U.S. Visit us online at: <http://www.iie.org/opendoors>.

Note: Percent distribution may not total 100.0 due to rounding

TOP PLACES OF ORIGIN OF INTERNATIONAL STUDENTS

	2015/16	2016/17	% of total	% change
World TOTAL	1,043,839	1,078,822	100.0	3.4
1 China	328,547	350,755	32.5	6.8
2 India	165,918	186,267	17.3	12.3
3 South Korea	61,007	58,663	5.4	-3.8
4 Saudi Arabia	61,287	52,611	4.9	-14.2
5 Canada	26,973	27,065	2.5	0.3
6 Vietnam	21,403	22,438	2.1	4.8
7 Taiwan	21,127	21,516	2.0	1.8
8 Japan	19,060	18,780	1.7	-1.5
9 Mexico	16,733	16,835	1.6	0.6
10 Brazil	19,370	13,089	1.2	-32.4
11 Iran	12,269	12,643	1.2	3.0
12 Nigeria	10,674	11,710	1.1	9.7
13 Nepal	9,662	11,607	1.1	20.1
14 United Kingdom	11,599	11,489	1.1	-0.9
15 Turkey	10,691	10,586	1.0	-1.0
16 Germany	10,145	10,169	0.9	0.2
17 Kuwait	9,772	9,825	0.9	0.5
18 France	8,764	8,814	0.8	0.6
19 Indonesia	8,727	8,776	0.8	0.6
20 Venezuela	8,267	8,540	0.8	3.3
21 Malaysia	7,834	8,247	0.8	5.3
22 Colombia	7,815	7,982	0.7	2.1
23 Hong Kong	7,923	7,547	0.7	-4.7
24 Spain	6,640	7,164	0.7	7.9
25 Bangladesh	6,513	7,143	0.7	9.7

TOP U.S. INSTITUTIONS HOSTING INTERNATIONAL STUDENTS, 2016/17

1 New York University	New York	NY	17,326
2 University of Southern California	Los Angeles	CA	14,327
3 Columbia University	New York	NY	14,096
4 Northeastern University - Boston	Boston	MA	13,201
5 Arizona State University - Tempe	Tempe	AZ	13,164
6 University of Illinois - Urbana-Champaign	Champaign	IL	12,454
7 University of California - Los Angeles	Los Angeles	CA	12,199
8 Purdue University - West Lafayette	West Lafayette	IN	11,288
9 University of Texas - Dallas	Richardson	TX	9,305
10 Penn State University - University Park	University Park	PA	9,134
11 University of California - San Diego	La Jolla	CA	9,065
12 Boston University	Boston	MA	8,992
13 University of Michigan - Ann Arbor	Ann Arbor	MI	8,163
14 University of Washington	Seattle	WA	8,019
15 University of California - Berkeley	Berkeley	CA	8,000
16 Michigan State University	East Lansing	MI	7,779
17 Ohio State University - Columbus	Columbus	OH	7,684
18 Carnegie Mellon University	Pittsburgh	PA	7,653
19 Indiana University - Bloomington	Bloomington	IN	7,502
20 University of Texas - Arlington	Arlington	TX	7,277

ACADEMIC LEVEL TRENDS OF INTERNATIONAL STUDENTS

	Undergraduate	% change	Graduate	% change	Non-degree	% change	DPT	% change
2012/13	339,993	9.9	311,204	3.6	8,528	5.7	94,919	11.5
2013/14	370,724	9.0	329,854	6.0	9,477	8.1	105,997	11.7
2014/15	398,824	7.6	362,228	9.8	13,587	17.8	120,287	13.5
2015/16	427,313	7.1	383,935	6.0	15,093	-9.1	147,498	22.6
2016/17	439,019	2.7	391,124	1.9	17,984	-14.2	175,695	19.1

HISTORICAL CONTEXT—PRESIDENT TRUMP'S TRAVEL BAN

- Shortly after President Trump was sworn in, he issued an executive order effecting border crossings and banning the following countries from entry: Iraq, Syria, Iran, Libya, Somalia, Sudan, and Yemen (Johnson, 2018).
- Moreover, the third and current ban which was implemented in September of 2017, focuses on the following countries: Iran, North Korea, Syria, Libya, Yemen, Somalia and Venezuela.



HISTORICAL CONTEXT-DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA) AND DEFERRED ACTION FOR PARENT ARRIVALS (DAPA)



- DACA permits children that were led to the USA illegally to apply for deferred action every 2 years as well as work visas as was introduced by former President Obama in 2012.
- DACA students are synonymously associated with being part of the 1.5 generation indicating that they are the first in their family to go to college but were born outside of the United States arriving at some point before the age of 12 (Bjorklund, 2018).
- Approximately 250,000 undocumented students attend institutes of higher education (Hsin and Ortega, 2018). Moreover, the dropout rate for students who fall under Deferred Action for Childhood Arrivals (DACA) (at 4-year institutions) is much higher (Hsin and Ortega, 2018).
- President Obama expanded the decree to include parents in 2014, Deferred Action Parent Arrival (DAPA).

CASE LAW-EARLY CASES

- *In the United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 542 (1950), it holds that "the exclusion of aliens is a fundamental act of sovereignty. The right to do so stems not only from legislative power but is inherent in the executive power to control the foreign affairs of the nation."
- *Kleindienst v. Mandel*, 408 U.S. 753, 765-66 (1972) states, "In the exercise of Congress' plenary power to exclude aliens or prescribe the conditions for their entry into this country, Congress in § 212(a)(28) of the Act has delegated conditional exercise of this power to the Executive Branch."
- *Toll v. Moreno* 441 U.S. 458 (1979) asserts that students with G4 status may have denial of admission.
- *Plyer v. Doe*, 457 U.S. 202 (1982) states that regardless of immigration status, students have the right to public education under the Fourteenth Amendment as devoid of this is contravene to the Equal Protection Clause.

CASE LAW-EARLY CASES

- *Francois v. Univ. of D.C.*, 788 F. Supp. 31 (D.D.C. 1992), which held that even if a university released a transcript of a student's academic record to the United States Attorney's Office "without proper notification" in violation of Family Educational Rights and Privacy Act (FERPA), the student had no private cause of action under FERPA because only the Secretary of Education or the administrative head of the education agency may take appropriate actions to enforce FERPA.
- In *Arizona v. United States*, 567 U.S. 387, 132 S. Ct. 2492, 2498, 183 L. Ed. 2d 351 (2012): "Arizona law enforcement may inquire about a resident's legal status during lawful encounters, but may not implement its own immigration rules. Ninth Circuit affirmed and reversed in part."
- In the *United States v. Texas*, 579 U.S. (2016), Obama's DAPA plan was put to a halt.

CASE LAW- TRAVEL BAN CASES

- *Washington v. Trump*, 847 F.3d 1151, 1157 (9th Cir. 2017). The state of Washington sued President Trump over the restraints of the travel ban. The state deemed it unconstitutional and an encroachment of 5th Amendment rights.
- *Washington v. Trump*, 853 F.3d 933, 946 (9th Cir. 2017) This was the subsequent appeal of the original filing which was discharged. En banc (full bench of judges) was proposed, but denied.
- In *Hawaii v. Trump*, No. 17-00050, 2017 WL 1011673, Trump's third travel ban was contested but ultimately by way of Supreme Court upheld.

CASE LAW-UNDOCUMENTED/DACA CASES

In *Regents of the University of California v DHS*, they first filed suit due to the repeal of DACA. Ultimately, the court decided that a directive was warranted for the plaintiff and that DACA cases could continue to be restored but no new cases would be accepted.

Vidal v. Duke, 2017 is still in progress as due process seems to have been thwarted.

Casa de Maryland v. United States Department of Homeland Security., 284 F. Supp. 3D 7258, 2018 Trump's retraction of DACA was challenged. Plaintiffs argued that equal protection and due process were infringed upon. After much back and forth, this case is still in litigation.

NAACP v. Trump, 298 F. Supp. 3d 209 where it was confirmed in April of this year (in accordance with the "Administrative Procedure Act" (ACT) that the Department of Homeland Security did not have enough evidence to shut down DACA.

NAACP v. Trump, 315 F. Supp. 3d 457) in August with the same outcome. As such, the court found "the DHS decision to rescind the DACA program was arbitrary and capricious because DHS failed adequately to explain its primary predicate, that the program was unlawful" (*NAACP v. Trump*, 298 F. Supp. 3d 209).

RECOMMENDATIONS--FRAMEWORKS

- Participatory Action Research Model (PAR) as a framework will endeavor towards assisting students (Trucios-Haynes and Michael, 2018).
- This model aspires to engage the larger community as stakeholders in addition to the institute of higher education with a needs assessment inventory as the basis of their research (Trucios-Haynes and Michael, 2018).

RECOMMENDATIONS- ACTION 1: COMMUNITY BUILDING

- While Bjorklund (2018) argues that the current literature has not delved into how institutions as a whole can work with the state and federal agencies, he contends the following as paramount: “access, awareness and improved campus climate, networks and support systems” need to be in place.
- By understanding this population of students via action research, support systems can be created to make sure that education is top priority while being respectful of government sanctions as they apply.
- Foster interpersonal relationships both inside and outside of the classroom between international and domestic students. “...the institutional level is the most crucial in creating the structures to facilitate increased interactions...” (Urban and Berlein Palmer, 2014, p. 321).

RECOMMENDATIONS--ACTION 2: ADVOCACY

- Hsin and Ortega (2018) affirm that DACA students specifically have a range of home responsibilities including but not limited to working to support family.
- Students deal with the burden of stigma of their labeled status of “undocumented” which has lasting implications and can impede their learning (Bjorklund, 2018). They may become socially isolated and distrustful (Bjorklund, 2018).
- Being mindful of outside of school responsibilities when creating master class schedules and out of class meetings for clubs and organizations should be an institutional commitment.
- Devising student groups of support with faculty participation can also bridge the gaps (Bjorklund, 2018).

RECOMMENDATIONS—ACTION 3: SELF-EDUCATION

- As part of the the “Illegal Immigrant Reform and Immigrant Responsibility Act (IIRIRA) of 1996”, illegal immigrants and international students are not entitled to lower tuition rates (Bjorklund, 2018).
- Some states have taken matters into their own hands; since 2010, twenty states have managed to offer in-state tuition to undocumented students (Bjorklund, 2018).
- Moreover, the following states offer loans to students without legal status: California, Washington, New Mexico, Minnesota, Oregon, and Texas (Bjorklund, 2018)

CONCLUSION

In sum, creating a task force to address internationalization concerns will aim in assisting a population of students that are too often overlooked and above all create an inclusive community. As such, it is incumbent for colleges and universities to become privy to the historical context of internationalization in the United States and the case law that surrounds it in support of not only the academic growth, but social and emotional growth of the entire student body. Community building, advocacy, and self-education should be focused on to better serve students that fall under the designation of international or are undocumented. The actionable steps to be endeavored must employ the entire campus community to be successful and must garner full support from all stakeholders. By providing an inclusive environment for all, colleges and universities will be able to navigate the ever changing governmental shifts in immigration reform and position themselves as a school of choice for those that are too often overlooked.

QUESTIONS?

- I have upload this presentation to the proposal space.
- Thank you so much for your time and attention!

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