



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF LEGISLATION AND CONGRESSIONAL AFFAIRS

August 2, 2011

Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your Committee's follow-up questions from the June 28, 2011, hearing on "The DREAM Act." Please see the enclosed document for responses to the questions submitted.

If you have any issues or questions about our responses, please contact me at 202-401-0020.

Sincerely,

A handwritten signature in blue ink, which appears to read "Gabriella Gomez", is written over a horizontal line.

Gabriella Gomez
Assistant Secretary
Office of Legislation and Congressional Affairs

Enclosure

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Senator Charles E. Grassley

Questions for the Record

The Honorable Arne Duncan, Secretary of Education

- 1. Are undocumented students currently barred from attending college in the United States?*

Under current law, undocumented students are not barred from attending college in the United States. However, section 484(a)(5) of the Higher Education Act of 1965 (HEA) requires that, in order to receive any Federal student financial assistance under title IV of that Act, a student must be a citizen or national of the United States, a permanent resident, or able to provide evidence that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident (20 U.S.C. 1091(a)(5)). In addition, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) provides that aliens other than “qualified aliens” as defined by PRWORA are ineligible for Federal postsecondary education benefits (8 U.S.C. 1611, 1641). While some States have chosen to make undocumented students eligible for State benefits, such as in-state tuition, those decisions are generally left up to each State and not dictated by the Department of Education (Department). In addition, the Department does not set admissions requirements or influence acceptance decisions; those responsibilities rest with institutions of higher education (and States, in the case of State institutions).

- 2. If S. 952, the Dream Act, were to be enacted, it would allow illegal immigrants to be eligible for in-state tuition. During the current economic downturn, how would you explain to American students, who cannot afford to go to out-of-state universities, that students here illegally would receive subsidized in-state tuition rates?*

S. 952, the Development, Relief, and Education for Alien Minors Act (DREAM Act) would not force states to provide in-State tuition to students without legal immigration status. The decision to offer in-State tuition benefits to students without legal immigration status would rest with the State. Current Federal law hampers States’ ability to choose how to set their in-State tuition policies. The DREAM Act makes it clear that States can choose whether they want to allow students without legal immigration status to pay in-State tuition rates. The DREAM Act would

return in-State tuition decisions to the States by providing legal clarity and making it easier for them to choose whether or not to charge in-State tuition to students without legal immigration status.

3. If enacted, what steps will you take to ensure American students will not be placed at a disadvantage in universities and community colleges?

The Department does not set admissions requirements or influence acceptance decisions, and it does not mandate State or institutional financial aid policies— such matters are left to the discretion of States and institutions of higher education, except as specifically provided by Federal law (see 8 U.S.C. 1621). The DREAM Act would not result in any changes to the Department’s role in these areas. It would not force States to award any state financial assistance to students without legal immigration status, and it does not mandate admissions decisions.

Where the Department can play a significant role in ensuring American students are not placed at a disadvantage is in the provision of federal student aid—a significant set of resources that allocates over \$150 billion annually to help almost 16 million students pay for college. This includes the Pell Grant program, which is the single-largest source of need-based grant aid for higher education in the nation and is awarded to over one-third of postsecondary students. The DREAM Act would not give students who obtain conditional lawful permanent resident status access to Federal Pell Grants. By working to ensure that the maximum award of \$5,550 is maintained, we can continue to help American students get significant assistance in paying for college. The Department can also continue to operate the Direct Loan Program so that loan funds are disbursed in a timely manner and are widely available. While students who obtain conditional lawful permanent resident status under the DREAM Act would gain access to the Direct Loan Program, loans made through this program are statutorily guaranteed to all students who are citizens, nationals, or permanent residents (provided they meet certain other eligibility requirements) and do not score as a cost to the government. Therefore, this expanded eligibility in the Direct Loan Program would not adversely affect American students.

*4. Do you support the legislation’s requirement that a person **does not** need to actually obtain a degree to be eligible for legal permanent resident status?*

a. Would the Department support an amendment to the bill requiring the completion of a degree to be eligible for adjustment to legal permanent resident status?

The DREAM Act provides rewards for individuals who have demonstrated hard work and perseverance, either through two years of higher education or two years of military service. It requires that these individuals make a significant commitment to invest in their future, but with the flexibility to choose the path that works for them and their communities. In order to be career-ready, there is no one-size-fits-all degree: career-ready might mean completing a four-year degree for some students, while for others it might be two years at a four-year school or community college. With respect to the higher education option, the DREAM Act still requires two years of higher education, the equivalent number of years required to complete many associate degree programs. To require degree completion rather than two years of attendance would create a disincentive for students to pursue a bachelor's degree.

It should also be noted that the two year requirement is a minimum, not a maximum. Students who receive conditional lawful permanent resident status could still pursue bachelor's degrees or even attend graduate school. Our higher education system provides a diverse range of learning options and degree programs and by setting a two year requirement we do not limit the options students can pursue, while also ensuring that the programs they enter necessitate a certain level of commitment.

The Department has endorsed the bill as introduced. Consistent with Departmental policy, the Department will review any additional language proposed by Congress.