

# Assisting Undocumented Students

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Blueprint for Success Conference  
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**SOUTHWESTERN LAW SCHOOL**  
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True or False?

- Undocumented students cannot attend college.
- The Trump administration will now focus its resources on deporting “dreamers” once their DACA expires.
- Foster youth have a right to counsel in immigration court proceedings.

# How to support undocumented students

*\*\*Poster created by Educators for Fair Consideration\*\**

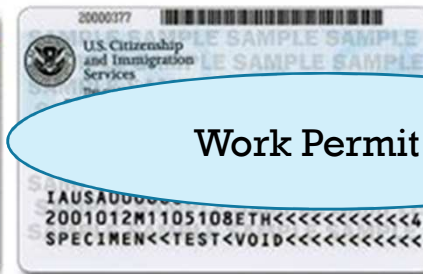
Undocumented?  
You're not alone.  
We're in this together.

# Immigration Terms: The Basics



“Green card”

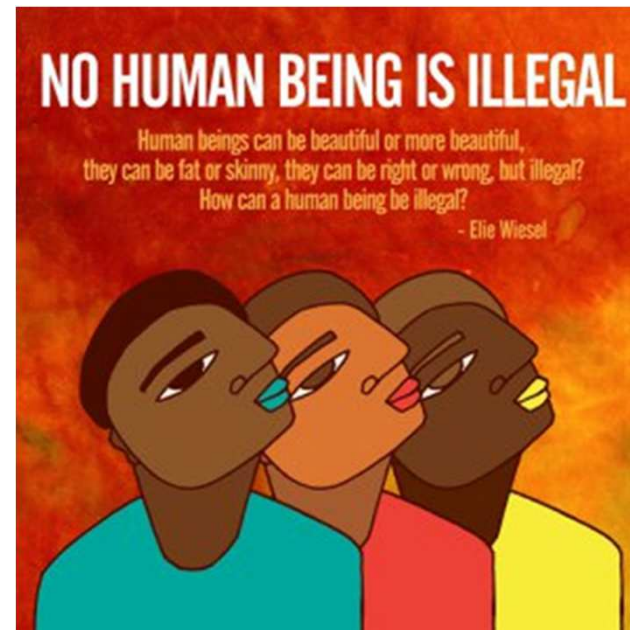
- United States Citizen (USC)
- Lawful Permanent Resident (LPR)
- Nonimmigrant (temporary)
- DACA – deferred action



Work Permit

# Undocumented

- Person in the US without legal immigration status.
- Does not have “documents” or “papers”
- Entered the U.S. with a visa, but overstayed
- Entered without inspection (illegally)



# Key Players

- **Department of Homeland Security (DHS)**
  - **Immigration and Customs Enforcement (ICE)**
  - **Customs and Border Protection (CBP)**
  - **United States Citizenship and Immigration Services (USCIS)**



# Immigration Relief

Special Immigrant Juvenile Status (SIJS)

U nonimmigrant status (U Visa)

~~Deferred Action for Childhood Arrivals (DACA)~~



## Special Immigrant Juvenile Status (SIJS)

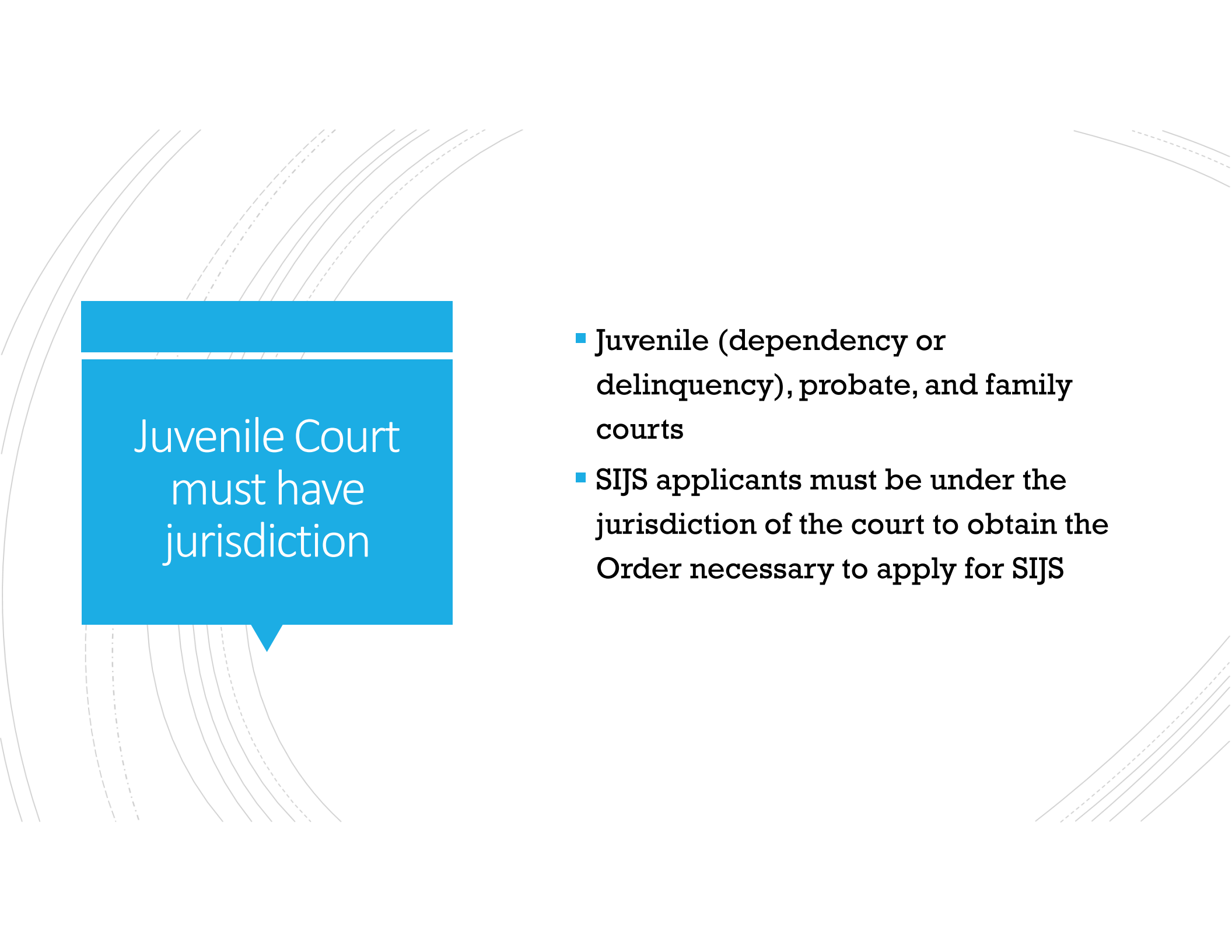


- SIJS is a way for certain undocumented children to apply for lawful permanent residency (LPR)



## SIJS Basics

- Dependent upon the juvenile court or placed under the custody of, an agency or department of a State, or an individual
- Reunification with one or both parents is not viable due to abuse, neglect, or abandonment, or a similar basis under State law; and
- Not in the child's "best interest" to be returned to home country

The background features several sets of curved lines in shades of gray, some solid and some dashed, creating a sense of motion and depth. A prominent blue speech bubble is positioned on the left side of the slide.

Juvenile Court  
must have  
jurisdiction

- Juvenile (dependency or delinquency), probate, and family courts
- **SIJS** applicants must be under the jurisdiction of the court to obtain the Order necessary to apply for SIJS

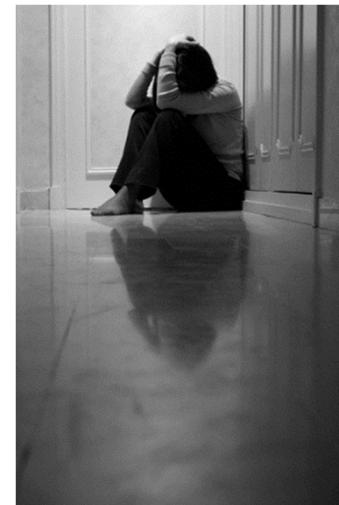
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## SIJS: Reunification with parent

- Children who live with both parents are NOT eligible for SIJS
- Children who live with neither parent MAY be eligible for SIJS via dependency, delinquency, adoption, or probate guardianship proceedings
- Children who live with one parent MAY be eligible for SIJS via dependency, delinquency, or adoption proceedings

## U nonimmigrant status (U Visa)

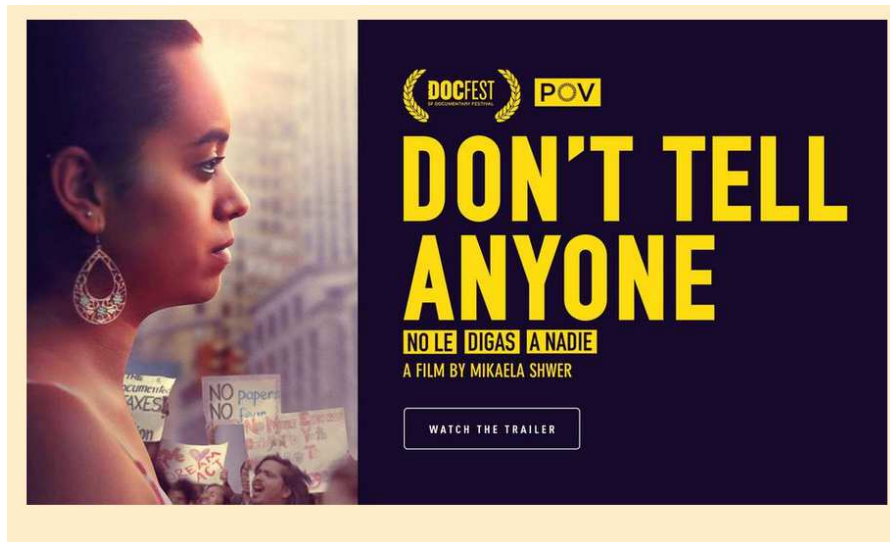
- Survivors of crimes such as domestic violence, child abuse, sexual abuse and other serious crimes in the U.S.
- Cooperation with law enforcement
- Parent victim can petition for child
- Child victim can petition for parent



## Eligibility Requirements

- Suffered (a) **substantial physical or mental abuse** as a result of having been (b) a **victim** of (c) **certain criminal activity**.
- Helpful in the investigation or prosecution.
- Crime violated the **laws of the United States or occurred in the United States**.

*[HTTPS://MEDIUM.COM/@ASKANGY/I-SURVIVED-A-CRIME-NOW-I-M-ON-A-PATH-TO-CITIZENSHIP-209E85FAD027](https://medium.com/@askangy/i-survived-a-crime-now-i-m-on-a-path-to-citizenship-209e85fad027)*



## Deferred Action for Childhood Arrivals (DACA)

- Temporary authorization to be present in the U.S. during period of deferred action, but does not grant **lawful status**
- Form of prosecutorial discretion
  - A person's removal is not a priority and thus deferred.
  - DHS "defers action" on the case.
- 2-year employment authorization
- Eligible to apply for:
  - Restricted Social Security Card
  - CA driver's license



**Rescinded on  
September 5, 2017**

What now?

- Cannot apply for (new) initial DACA.
- If filed DACA prior to September 5, 2017, DHS will adjudicate application.
- If status expires before March 5, 2018, final deadline to renew was on October 5, 2017.
- If filed by October 5, likely renew for 2 full years.
- If status expires after March 5, 2018, cannot renew.
- Can replace work permit if lost, but cannot renew.
  - DACA & work permit expire on date shown on approval notice and work permit.
- Right to work legally until work permit expires.



## What's next?

- Once current period of DACA expires, no longer hold deferred action or work authorization
- Social security number remains valid for life
  - Use for education, banking, housing, etc.
- Slightly greater risk of removal
- USCIS will not refer DACA recipients to ICE unless risk to national security or public safety
- 1000 Dreamers per day, 30,000 per month will lose work authorization
- Think creative: Independent Contractor



CA DREAMER

**YOU  
MUST ATTEND  
COLLEGE**

[www.cadreamnetwork.org](http://www.cadreamnetwork.org)

# AB 540 (CA Education Code §68130.5)

## ■ AB 540

- Pay in-state tuition
- Community college
- University of California
- California State University

All public colleges and  
universities in California

## ■ AB 540 Requirements:

- Attended CA high school for 3 or more years
- **Or** credits from a CA high school equivalent of 3 or more years of high school coursework & 3 or more years in CA elementary schools, secondary school or a combination
- Graduated from CA high school, GED, HiSET or TASC
- Register or enroll in college or university
- AB 540 Affidavit
- Do not hold a non-immigrant visa

What is an AB 540 Affidavit?

Simple one-page form

**California Nonresident Tuition Exemption Request**  
*For Eligible California High School Graduates*

**Note:** This form is accepted by all California Community Colleges and all campuses in the California State University system; some University of California campuses will allow use of this form, but most require applicants to complete a campus-specific form to apply for AB 540 status.

Complete and sign this form to request an exemption from Nonresident Tuition. You must submit any documentation required by the College or University (for example, proof of high school attendance in California). Contact the California Community College, University of California, or California State University campus where you intend to enroll (or are enrolled) for instructions on required documentation, additional procedures and applicable deadlines.

**ELIGIBILITY:**  
 I, the undersigned, am applying for a California Nonresident Tuition Exemption for eligible California high school graduates at \_\_\_\_\_ and I declare the following:  
 (specify the college or university)

**Check YES or NO boxes:**  
 Yes  No  I have graduated from a California high school or have attained the equivalent thereof, such as a High School Equivalency Certificate, issued by the California State GED Office or a Certificate of Proficiency, resulting from the California High School Proficiency Examination. I have either:

- attended high school in California for three or more years, or
- attained credits earned in California from a California high school equivalent to three or more years of full-time high school course work and attended a combination of elementary, middle, and/or high schools in California for a total of three or more years.

**Specify the most recent three years of elementary, middle, and/or high schools you attended in California:**

School	City	State	Dates	
			From—Month/Year	To—Month/Year
		California		
		California		
		California		
		California		
		California		
		California		

Documentation of applicable school attendance and high school graduation (or its equivalent) is required by the University of California, The California State University and some California Community Colleges. Follow campus instructions.

**Check the box that applies to you – check only one box:**  
 I am a nonimmigrant alien as defined by federal law and have been granted T or U visa status, under Title 8 of the United States Code, sections 1101(a)(15)(T) or (U).  
 OR  
 I am NOT a nonimmigrant alien. [U.S. citizens, permanent residents, Deferred Action for Childhood Arrivals (DACA) grantees, or aliens without lawful immigration status, among others, should check this box.]  
 OR  
 I am a nonimmigrant alien as defined by federal law. [Nonimmigrant aliens have been admitted to the United States temporarily and include, but are not limited to, foreign students (persons holding F visas) and exchange visitors (persons holding J visas)]. Do not check this box if you have been granted T or U visa status (check first box above).

**AFFIDAVIT:**  
 I, the undersigned, declare under penalty of perjury under the laws of the State of California that the information I have provided on this form is true and accurate. I understand that this information will be used to determine my eligibility for the nonresident tuition exemption for eligible California high school graduates. I hereby declare that, if I am an alien without lawful immigration status, I have filed an application to legalize my immigration status or will file an application as soon as I am eligible to do so. I further understand that if any of the above information is untrue, I will be liable for payment of the nonresident charges from which I was exempted and may be subject to disciplinary action by the College or University.

Print Full Name (as it appears on your campus student records)	Campus/Student Identification Number
Print Full Mailing Address (Number, Street, City, State, Zip Code)	Email Address/Phone Number (Optional)
Signature	Date

## What does the affidavit ask?

- **Verify educational requirements.**
- **Certify student is in process of legalizing immigration status or will file “an application” as soon as eligible.**
- **Does not hold a non-immigrant visa.**



**Signed under  
penalty of perjury**

Where do I get  
the form?

## CALIFORNIA COMMUNITY COLLEGE & CALIFORNIA STATE UNIVERSITY

- *California Nonresident Tuition Exemption Request* form
- Admissions Office
- Office of Admissions and Records

## UNIVERSITY OF CALIFORNIA

- UC campuses have their own application and affidavit forms
- <http://undoc.universityofcalifornia.edu/campus-support.html>

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What else do I  
need?

- **AB 540 Affidavit**
- **Transcripts**
- **Graduation records or equivalent**
- **Submit BEFORE you pay tuition and fees**
- **Submit the semester before you attend school**
- **Confidential (and protected under federal and state laws)**

Do I need a social security number to apply for college?

- You do not need a social security number
- If you have a valid social security number, valid for life



Valid even after work permit & DACA expire



## Can I use an ITIN?

- Not necessary for college application.
- Individual Tax Payer Number (ITIN)
  - If not eligible for SSN
  - Use to open a bank account (with ID)
  - Use to file state and federal tax forms & report earnings
  - Use if independent contractor
    - For self-employment tax and income tax
  - How to apply? File Form W-7 with the IRS

California Dream  
Act  
[www.caldreamact.org](http://www.caldreamact.org)

- Undocumented students are not eligible for Federal Financial Aid and must **not** submit a FAFSA.
- This includes AB 540 students
- This includes DACA students
- Apply if not eligible for FAFSA

- **Resources:**
- Cash for College workshops [www.cash4college.org](http://www.cash4college.org)
- Educators for Fair Consideration (E4FCs): *How to guarantee you use the correct application flyer*

# California Dream Act

- **AB 130**
- AB 540 students
- Privately funded scholarships administered by CA colleges and universities.
  
- **AB 131**
- AB 540 students
- Board of Governor's Fee Waiver
- Cal Grants
- California Dream Act Application: [www.csac.ca.gov](http://www.csac.ca.gov)
- Confidential process
- Not shared with federal government or used for immigration enforcement purposes.

Other options?

- UC and CSU: Dream Loan
- Installment Plans: partial payments

### **Scholarships:**

- MALDEF Scholarship Resource Guide  
[www.maldef.org](http://www.maldef.org)
- Congresswoman Roybal-Allard Resource Guide  
<http://roybal-allard.house.gov>
- Educators for Fair Consideration: [www.e4fc.org](http://www.e4fc.org)



October 24, 2011  
Sensitive  
Locations Memo

## GENERALLY NO ENFORCEMENT

- Limits enforcement actions
- Not a complete prohibition (exceptions national security/danger to public)
- Remains in force today, but can be withdrawn or amended at any time

## AT SENSITIVE LOCATIONS

- Preschools, primary schools, secondary schools, post-secondary schools, colleges and universities, vocational or trade schools [FAQs: + school bus stop, school activities]
- Hospitals [FAQs: + Dr. office]
- Places of Worship
- Public religious ceremony
- Public demonstrations

What if ICE Shows up at college campus?  
For areas not open to the public

## JUDICIAL WARRANT



- If agent seeks to search area with reasonable expectation of privacy, 4<sup>th</sup> amend protection, requires judicial warrant
- Warrant signed by a **judge** or **magistrate**

## ADMINISTRATIVE WARRANT



- Warrant based on Removal Order (I-205)
- ICE Warrant of Arrest, (I-200)
- **Only grants agents authority to enter areas where no reasonable expectation of privacy (public space)**

**Don't let ICE onto campus  
(nonpublic areas) without a warrant**

**JUDICIAL WARRANT**



**ADMINISTRATIVE WARRANT**



AO 83 (Rev. 12/09) Search and Seizure Warrant

**UNITED STATES DISTRICT COURT**

for the  
Eastern District of California

In the Matter of the Search of  
*(Briefly describe the property to be searched  
or identify the person by name and address)*  
540 Oak Avenue  
Davis, California 95616

Case No.

**SEARCH AND SEIZURE WARRANT**

To: Any authorized law enforcement officer **2:11-SW-0161 EFB**

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the EASTERN District of CALIFORNIA.  
*(Identify the person or describe the property to be searched and give the location).*  
**SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE**

The person or property to be searched, described above, is believed to conceal *(Identify the person or describe the property to be seized)*.  
**SEE ATTACHMENT B, ATTACHED HERETO AND INCORPORATED BY REFERENCE**

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

**YOU ARE COMMANDED** to execute this warrant on or before 5-9-2011  
*(not to exceed 14 days)*

in the daytime 6:00 a.m. to 10 p.m.  at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge

*(name)*

I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized *(check the appropriate box)*  for \_\_\_\_\_ days *(not to exceed 30)*.

Until, the facts justifying, the later specific date of \_\_\_\_\_.

Date and time issued: 4-25-2011  
9:10:00 AM

City and state: SACRAMENTO, CALIFORNIA EDMUND F. BRENNAN, U.S. MAGISTRATE JUDGE  
*Printed name and title*

U.S. Department of Justice  
Immigration and Naturalization Service

**Warrant of Removal/Deportation**

File No: \_\_\_\_\_

Date: \_\_\_\_\_

To any officer of the United States Immigration and Naturalization Service:

\_\_\_\_\_  
*(Full name of alien)*

who entered the United States at \_\_\_\_\_ on \_\_\_\_\_  
*(Place of entry) (Date of entry)*

is subject to removal/deportation from the United States, based upon a final order by:

- an Immigration Judge in exclusion, deportation, or removal proceedings
- a district director or a district director's designated official
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:  
Section 241(a)(5) of the Immigration and Nationality Act, as amended.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of the appropriation. "Salaries and Expenses Immigration and Naturalization Service 2002," including the expense of an attendant if necessary.

\_\_\_\_\_  
*(Signature of ICE officer)*

\_\_\_\_\_  
*(Title of ICE officer)*

\_\_\_\_\_  
*(Date and office location)*

## Student rights

Are there laws that prevent schools from sharing student information?

- The Family Educational Rights and Privacy Act (FERPA) and other privacy laws ensure the privacy of educational records
- FERPA requires schools to maintain confidentiality of all student records.
- Schools are prohibited from providing information from a student's file that shows immigration status to immigration (unless they have consent)
- See [familypolicy.ed.gov/ferpa-parents-students](http://familypolicy.ed.gov/ferpa-parents-students).



ICE Does not have a Right to  
Access Private Student  
Records

- Schools may not release information about students' immigration status to ICE unless required by a judicial order, warrant, subpoena
- If served with a subpoena for student's immigration status, make reasonable efforts to notify the student or parent before disclosing anything
  - Student/parent can seek protective action.
  - Consult with general counsel.
- Exceptions, e.g. terrorism investigation

## Possible Safeguards & Sanctuary Policies

### CREATE TOOLS TO PROTECT STUDENTS

- Does school have a written policy on:
  - Interaction with ICE?
  - Requests for information from ICE?
- Which areas of campus are protected?
- Are policies online?

### POLICIES

- Create a **policy** to limit cooperation with ICE (e.g. “Sanctuary policy”)
- Make sure **disciplinary policies don’t involve law enforcement [stop prison pipeline]**
- **Train** staff how to respond to ICE requests for information or to enter school grounds
- Minimize when students need to disclose their status.
- Data collection: Don’t ask questions about immigration status of parent or student

January 25, 2017  
Executive  
Orders on  
Enforcement

**ALL UNDOCUMENTED PERSONS ARE NOW AN  
ENFORCEMENT PRIORITY**

- Officers instructed to arrest anyone who they have probable cause to believe is in violation of immigration laws.
- This includes a person who overstayed his visa.
- All are a priority.

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## Donald Trump's DHS Says Immigration Authorities Can Deport Pretty Much Any Undocumented Person

"The Department will no longer exempt classes or categories of removable aliens from potential enforcement," an official memo says.

## Trump Launches His Deportation Force, Declares Open Season on Refugees, Immigrants, and American Families

by AV Press Releases on January 25, 2017

TAGS: AVEF, CENTRAL AMERICAN REFUGEES, DONALD TRUMP, EXTREMISM, HIGHLIGHTS, MASS DEPORTATIONS, MUSLIM BAN, SYRIAN REFUGEES



The following is a statement from Lynn Tramonte, Deputy Director of America's Voice Education Fund, reacting to the array of extreme immigration, border, and refugee-focused executive orders **set to be announced** by President Trump today and tomorrow.

## "Open season"

An arrest in Seattle may be an indication Trump is going after young immigrants protected by Obama



## ICE director plans more neighborhood arrests after California's 'sanctuary state' bill



BY CHRISTOPHER CADELAGO  
[ccadelago@sacbee.com](mailto:ccadelago@sacbee.com)

OCTOBER 06, 2017 2:18 PM



The Trump administration's immigration chief warned Friday that his agents will be making more arrests in California neighborhoods and workplaces because Gov. Jerry Brown signed a

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The background features several sets of curved lines in shades of gray, some solid and some dashed, creating a sense of motion and depth. A blue speech bubble is positioned on the left side of the slide.

## How Can You Help? Know Your Rights

- Build capacity
- Connect families to immigration advocates
- CHIRLA: “America; I Too.” video: (March 2017)
  - <https://www.youtube.com/watch?v=GAlAY5-ZIOw>
- National Immigration Law Center: [www.nilc.org](http://www.nilc.org).
- Know-Your-Rights: [www.ilrc.org](http://www.ilrc.org)