

**Testimony to the U.S. House of Representatives,
Committee on Education and the Workforce**
***“Reviving Our Economy: How Career and Technical Education Can Strengthen the
Workforce”***

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**Angela D. Morrison
Visiting Assistant Professor
Thomas & Mack Legal Clinic, William S. Boyd School of Law
University of Nevada, Las Vegas**

Good afternoon Chairman Kline and Committee members. I thank the Chairman and the Committee for inviting me to testify this afternoon. I am pleased to present testimony regarding “Reviving Our Economy: How Career and Technical Education Can Strengthen the Workforce” and commend the Committee for its focus on such an important topic.

While programs like the Perkins Career and Technical Education Act provide a means for state and local leaders to develop programs that encourage successful transitions from secondary skills training to postsecondary skills training to careers for many young people, a substantial number of young people stall at secondary skills training due to their own immigration status or that of their parents. By not providing a method for these young people or their parents to regularize their immigration status, the United States is squandering the enormous contributions that these young people could make to the United States.

Legal Framework—Education/Training, Access to Financial Aid & Unauthorized Immigrants

Currently, we are investing in the education of children and being denied a return on our investment through the operation of various laws governing noncitizens. Children in the United States have the right to a public, K-12 education regardless of their immigration status.ⁱ In 1982, the United States Supreme Court considered whether the State of Texas could exclude children who were in the United States without authorization from the state’s public, K-12 education system.ⁱⁱ The Court found the Equal Protection Clause of the Fourteenth Amendment prohibited the state from treating unauthorized children different from other children in Texas because no substantial state interest justified it.ⁱⁱⁱ

However, three aspects of our current legislative framework and policy mean that young people who have the right to K-12 education and in whom we have invested are left out in the cold when it comes to further developing their skills through postsecondary education and transitioning into the workforce. First, and perhaps most obvious, young people who are unauthorized are unable to work in the wake of legislation passed in 1986.^{iv} The Immigration and Reform Control Act (IRCA) made hiring unauthorized

workers a crime.^v As others have noted, the employer sanctions implemented through IRCA, “can be seen as an example of Congress reaching into the employment arena to fulfill the enforcement aspect of immigration regulation.”^{vi} There are two impacts of this law that are relevant to my testimony today—unauthorized immigrants who are enrolled in secondary education programs that encourage internships as a means to further their technical skills are unable to participate due to IRCA and its progeny; and once unauthorized immigrants complete their secondary education they are unable to transition into the workforce since they have no work authorization.

The Deferred Action for Childhood Arrivals (DACA) program allows some young people to temporarily overcome the challenge of work authorization because approval under the program comes with work authorization for a period of two years. The Migration Policy Institute estimates that 1.09 million young, unauthorized immigrants meet the age, entry, and eligibility requirements of DACA.^{vii} Ten percent of DACA eligible young people have earned at least an associate’s degree, and “an additional 22% are enrolled in college.”^{viii} Most of them are between the ages of “18 to 26 years old—the prime age for either entering the workforce or attending college.”^{ix} Currently, United States Citizenship Services has received 610,694 DACA applications and approved 521,815.^x Nonetheless, DACA bestows no immigration status and is merely an exercise of the administration’s prosecutorial discretion authority.

Second, unauthorized immigrant youth, even those with DACA, face tremendous challenges in obtaining postsecondary education and training. It is up to individual states whether to grant in-state tuition to unauthorized students or even allow unauthorized student to enroll.^{xi} And, when unauthorized immigrants do enroll they are unable to access federal financial aid, including, grants, loans, and work study programs.^{xii}

Finally, the United States immigration system negatively impacts the educational and career opportunities of United States citizen children whose parents are unauthorized. An estimated 4.5 million United States citizen children have an unauthorized immigrant parent.^{xiii} In a period spanning two years--2010 to 2012, the Department of Homeland Security effected 204,810 removals that involved the parents of United States citizen children.^{xiv} Not only can the removal of a United States citizen child’s parent(s) result in the de facto removal of that child, but also the immigration arrest of a parent can impact the child’s ability to successfully participate in school. One long-term study conducted by The Urban Institute in February 2010, found that children whose parents were arrested by immigration authorities suffered declining academic performance and behavioral problems in school in the six-month period after their parents’ arrest.^{xv}

Case Examples

Through my work supervising student attorneys in the Thomas & Mack Legal Clinic, I have assisted young people who are unauthorized immigrants and interacted with young U.S. citizens whose parents are facing removal. The Clinic takes on pro bono legal representation of noncitizens in a variety of immigration matters. The experiences of two

young people illustrate the challenges our immigration laws pose to the successful transition from secondary education to postsecondary education and careers.

- Yesenia's parents brought her to the United States when she was only 18 months old. Yesenia was an outstanding student even as early as elementary school. She had dreamed of attending college ever since she was young and her family encouraged her dream. She found out that she had no immigration status when she was nine years old. Despite her unauthorized status, Yesenia was able to complete high school and enroll at UNLV. Yesenia continued to excel at UNLV where she made the Dean's list, received a university-wide award for research, and graduated from UNLV *magna cum laude* in 2012. Remarkably, Yesenia was able to do this despite her inability to access federal financial aid or work. The Clinic met Yesenia in the Fall of 2011 (her senior year at UNLV), after Immigration and Customs Enforcement had picked up her family. Yesenia had no pathway to obtain legal status and at the time the best she could hope for was to request that ICE exercise its prosecutorial discretion and stay her removal. Yesenia received a temporary stay on her removal but her future ability to remain was uncertain. After the administration announced its program for Deferred Action for Childhood Arrivals (DACA) in June 2012, Yesenia was able to apply for DACA and receive deferred action and, importantly, work authorization for a period of two years. Yet, Yesenia's continued ability to remain and for the United States to benefit from the investment it has made in this remarkable young woman's education is tenuous without passage of a bill like the DREAM Act that would allow young people like Yesenia to regularize their immigration status.
- Johan is a United States Citizen but both of his parents were present in the United States without authorization. The Clinic met Johan when Immigration and Customs Enforcement sought to remove his mother. When Johan was 13 years old and a successful middle school student achieving high grades—mostly As & Bs—ICE removed his father from this country. Within the next few months, his mother suffered a stroke, they lost their family home, and then ICE picked up his mother. Needless to say, Johan's grades plummeted and he experienced almost debilitating stress and anxiety over the possible removal of his mother. The Clinic was able to obtain a temporary stay of removal for Johan's mother but this stay is tenuous. Johan is now 15 years old and again doing well in school. He is in ROTC and has an interest in becoming a software engineer; yet, this all depends on his ability to remain in the United States. Even though Johan is a United States Citizen, should his mother be removed while he is underage, he will be effectively removed as well. Again, without a permanent solution that would allow Johan and the parents of other United States Citizen children like Johan to regularize their status, we continue to run the risk of effectively "deporting" children like Johan who could make tremendous contributions to our economy and economic security.

Conclusion

In both instances, that of young people who themselves are without immigration status and that of young people who are effectively deported due to their parents' immigration status, the United States workforce does and will continue to suffer. I, therefore, urge this Committee to take account of young people like Yesenia and Johan by supporting and recommending Comprehensive Immigration Reform or, at a minimum, the passage of the DREAM Act as a means to strengthen our workforce.

Moreover, legislation like HR 4138, the ENFORCE Act, and HR 3973, the Faithful Execution of the Law Act, undermine the only (albeit limited) relief deserving young people like Yesenia have available to them. Attacking programs such as the Deferred Action for Childhood Arrivals or Parole in Place will, for the reasons I have already discussed, result in even more young people left unable to pursue promising futures that will benefit the United States. The removal of young unauthorized immigrants, the de facto removal of United States citizen children, and the lack of opportunity for unauthorized young people who remain without the ability to work or enroll in postsecondary education and training programs represent a gap in the United States' career and technical education programs that can only be addressed through immigration reform. Any legislation or policies that this committee considers must take account of this in order to truly revive our economy. Thank-you.

ⁱ See *Plyler v. Doe*, 457 U.S. 202 (1982).

ⁱⁱ *Id.* at 205.

ⁱⁱⁱ *Id.* at 230.

^{iv} Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, § 101(a)(1) (codified as amended at 8 U.S.C. § 1324a (2012)).

^v INA § 274A, 8 U.S.C. § 1324a(a) (2012).

^{vi} See, e.g., Leticia M. Saucedo, *Immigration Enforcement Versus Employment Law Enforcement: The Case for Integrated Protections in the Immigrant Workforce*, 38 Fordham Urb. L. J. 303, 305 (2010).

^{vii} JEANNE BATALOVA, ET AL., DEFERRED ACTION FOR CHILDHOOD ARRIVALS AT THE ONE YEAR MARK: A PROFILE OF CURRENTLY ELIGIBLE YOUTH AND APPLICANTS (MPI 2013) at 3.

^{viii} *Id.* at 7.

^{ix} *Id.* at 9.

^x USCIS, *DACA Quarterly Report FY14Q1* (Feb. 6, 2014).

^{xi} See generally Michael A. Olivas, *IIRIRA, The DREAM Act, and Undocumented College Student Residency*, 30 J. Coll. & U. L. 435 (2004) (describing the interaction

between federal law and the labyrinth of various state laws, regulations, and individual institution guidelines regarding the enrollment and tuition of unauthorized immigrants).
^{xii} 20 U.S.C. § 1091(a)(5).

^{xiii} JEFFREY S. PASSEL & D'VERA COHN, UNAUTHORIZED IMMIGRANT POPULATION: NATIONAL AND STATE TRENDS, 2010 (Pew Hispanic Center 2011) at 13.

^{xiv} Seth Freed Wessler, *Nearly 205K Deportations of Parents of U.S. Citizens in Just Over Two Years*, Colorlines (Dec. 17, 2012), available at http://colorlines.com/archives/2012/12/us_deports_more_than_200k_parents.html.

^{xv} AJAY CHAUDRY, ET AL., FACING OUR FUTURE: CHILDREN IN THE AFTERMATH OF IMMIGRATION ENFORCEMENT (Urban Institute 2010) at 50-53. The report also notes that when schools served a “role in offering stability and structure” children experienced positive long term adjustments. *Id.* at 53.