

PETITION FOR RULE-MAKING TO PROMULGATE REGULATIONS  
GOVERNING FINANCIAL AID ELIGIBILITY FOR STUDENTS ATTENDING  
CONNECTICUT INSTITUTIONS OF HIGHER EDUCATION

SUBMITTED TO:

BOARD OF REGENTS FOR HIGHER EDUCATION, STATE OF CONNECTICUT  
BOARD OF TRUSTEES FOR THE UNIVERSITY OF CONNECTICUT  
OFFICE OF HIGHER EDUCATION, STATE OF CONNECTICUT

MARCH 6, 2014

BY

CONNECTICUT STUDENTS FOR A DREAM

I. STATEMENT OF PETITION

The petitioner, Connecticut Students for a Dream, respectfully requests that the Board of Regents for Higher Education (“Board”), Board of Trustees for the University of Connecticut (“UConn”), and Office of Higher Education, State of Connecticut (“OHE”) promulgate regulations that allow otherwise eligible undocumented Connecticut students to access financial aid from state institutions of higher education on the same terms as students with lawful immigration status. Pursuant to the Connecticut General Statutes, “[a]ny interested person may petition an agency requesting the promulgation . . . of a regulation.”<sup>1</sup> Though the Board has the statutory authority to promulgate these regulations for the community colleges, state universities, and the University of Connecticut, the petitioner also asks that UConn and OHE promulgate the same proposed regulations.<sup>2</sup> This petition proposes narrowly tailored reforms that would declare otherwise eligible undocumented students eligible for institutional financial aid from all Connecticut institutions of higher education based on financial need. The reforms would eliminate discrimination in institutional financial aid eligibility on the basis of immigration status. Specifically the reforms would require all Connecticut institutions of higher education to make available to undocumented students the funds currently set

---

<sup>1</sup> Conn. Gen. Stat. § 4-174; *see also* Regs. Conn. State Agencies § 10a-5-5.

<sup>2</sup> Conn. Gen. Stat. Conn. § 10a-6 (Board of Regents for Higher Education shall . . . [e]stablish state-wide policy and guidelines for Connecticut’s system of public higher education . . . [and] . . . establish state-wide tuition and student fee policies). Gen. Stat. § 10a-105 (Board of Trustees of the University of Connecticut “shall set aside from its anticipated tuition revenue an amount not less than . . . required by the board of governors’ [now Board of Regents] tuition policy established under subdivision (3) of subsection (a) of section 10a-6”); Conn. Gen. Stat. § 10a-161 (OHE shall “establish state-wide policy pertaining to student financial assistance” and “establish procedure by regulation, for the award of financial assistance”).

aside for students who would not otherwise be eligible for institutional aid, and require Connecticut institutions of higher education to accept financial aid forms that do not require a Social Security number.

The proposed reforms would increase access to higher education for moderate and low-income Connecticut students who are unable to attend college without financial aid, increase educational opportunities for immigrant youth and their communities, and produce a more skilled workforce in Connecticut for generations to come.

## II. STATEMENT OF INTEREST

Petitioner Connecticut Students for a Dream (“C4D”) is a statewide organization of immigrant students, parents, and allies that empowers undocumented students by advocating for their rights and raising awareness about the challenges they face. C4D promotes access to higher education for undocumented students and works to end discrimination on the basis of immigration status. C4D members have traveled to Washington D.C. to advocate for the passage of comprehensive immigration reform and the DREAM Act, which would allow undocumented youth who arrived in the United States as minors to gain legal immigration status if they attend college or serve in the military. The organization has also made an impact locally by organizing students and parents across the state in support of the 2011 law<sup>3</sup> that granted in-state tuition rates to undocumented students. Members of C4D stood side-by-side with Governor Malloy as he signed the in-state tuition bill. Then, C4D member Maria Praeli explained on behalf of undocumented students across Connecticut: “Today is a new day with a new reality. . . . I don’t have to hide anymore, because my dreams of an opportunity for college are . . . possible.”<sup>4</sup> C4D also continues to reach out to immigrant students through several programs including Dream Educational Empowerment Program (DEEP) which offers College Access workshops, guidance counselor training, and peer-to-peer college advising.

The following testimonies from students, parents, and allies speak to the urgent need for improved financial aid opportunities within the Connecticut immigrant community.

### **Martha, Naugatuck Community College**

My name is Martha. I am twenty five years old. I attend Naugatuck Community College. This is my third semester. My major is Accounting and I consider myself a good student. I am an undocumented student, and I am no longer afraid to say it. I am not a criminal. I am a human being who has the same rights and respect as anyone else. I think that nowadays, getting an education is a privilege because many people do not have the opportunity to get one for many reasons.

---

<sup>3</sup> Conn. Gen. Stat. § 10a-29(9)

<sup>4</sup> Mary O’Leary, *Governor Malloy signs bill to give illegal immigrants in-state tuition rates*, NEW HAVEN REGISTER (June 7, 2011).

One of many goals that I have is to finish college, but unfortunately nowadays for an undocumented student like me it is expensive. I still wonder why being an undocumented student is a problem. All that I want is to become a professional, have a better future for my kids and family, and to be an inspiration and a good role model for the community. I think that, we, all the students, deserve this opportunity to qualify for financial aid with no exceptions.

### **Junior Sierra, Center For Global Studies, Brien McMahon High School**

My father came to the United States when I was 9 months old and my mother followed when I was a year and 6 months. My parents came to the US to offer me a better opportunity. My parents planned to come to the US for just a year or two and return back. Those two years turned into five. I spent five long years without a pat on the back for my accomplishments; five long years without someone to pick me up when I fell and scraped my knee; five long years without the parental warmth of a hug.

When I arrived to the US at age 6 I felt stupid because I did not know a single word of English. However, my mother told me that if I worked hard I could accomplish any goal. I followed my mother's advice. I became one of the best readers and writers in school. I have maintained high honor role grades. I won the "Best in Fair" award at the Norwalk Science Fair and earned a \$20,000 scholarship to Quinnipiac at the Statewide Science Fair. However, because of my legal status I cannot claim my scholarship.

Institutional aid would mean an equal opportunity to attend college. Institutional Aid would be a step closer to my dream of traveling to all 196 countries to open up feeding centers and children's clinics in the poorest of slums. Institutional Aid would be a step closer to the dreams of thousands of undocumented students in Connecticut.

### **Marcos Esteban Fallas, Eastern Connecticut State University**

I just transferred from a community college to ECSU. I was approved for financial aid, and I was so happy to realize that I would finally be able to achieve my dreams of earning my college degree. However, my financial aid advisor told me that the aid did not go through because I lack immigration status. I explained my situation but nothing could be done. My mother cannot help me; she does not have the resources to help me financially. This is why I have worked hard to pay for my education. I am terrified that I may have to leave ECSU - just the thought of this makes me want to sit down and cry. However, I know I have to stay strong. I have been doing research and trying to open doors, to see if there are any organizations that can help me. I am a great student. I am trying my best to get the highest GPA possible, to show that I am here for a reason. Of course this news has thrown me off. I just need some guidance on what I should do. I honestly see

myself achieving the unachievable in this school, but with all these obstacles I am losing my focal point. I hope someone out there will be able to help me.

**Maria Melchor, East Haven High School**

I am in the process of applying to undergraduate colleges. When I began the application process, my residency application was still pending. It had been processing for a long time. Although I was nominated for the University of Connecticut's Day of Pride Scholarship, I was unable to apply for this scholarship because of my residency status. I have worked hard in my public high school, yet it will be difficult to attend a top university like UConn without financial aid. I am excited to report that my residency application was recently approved in January! However, because of the lack of financial aid for undocumented students, I missed the chance of a lifetime; a chance to act on a UConn scholarship nomination I had earned. Government action is needed so that hard working students like myself are not denied access to the financial aid they deserve and need.

**Jennifer Hernandez, Western Connecticut State University**

It's not easy for us to work a full time job, be a full time student and still fulfill a student's responsibilities and the house's chores. It is really a tough schedule but getting financial aid would help many students focus on studies without worrying about the many burdens that we take care of. I want to become a Physician's Assistant. I know this will be one of the hardest and longest but most worthy experience I will ever get. It will help me a lot to get financial aid because it will lead me closer to becoming a successful woman and a successful PA. I want to become a PA so I can live my life to the service of others; others like me live under low economic resources.

**Danilo Machado, UConn Stamford**

The importance of higher education has always been stressed in my family. Throughout my academic career, I challenged myself to achieve, took challenging classes, and was involved in many extracurricular activities. Despite graduating ninth in a class of almost six hundred, my immigration status severely limited my financial aid. I am still facing difficulties financially because I am not able to receive any aid from UConn and must pay for everything out of pocket. This has made it so that I am going semester by semester, always anxious whether my parents will have enough saved once the new semester rolls around.

**Faye Phillip, Stamford**

I am originally from Trinidad and Tobago, but I live in Stamford now. I have been in the country for almost 15 years. I am 25 years old and have not yet graduated from college. Unfortunately, I am no longer in school.

The one thing that I have always wanted to accomplish in my life is to graduate college. Not having access to financial aid has been one of the main barriers that stopped me from getting to where I want to go in life. It is very hard seeing my friends go to college, get ahead in life and have the opportunities that I want for myself but can't hold. Institutional Aid would change my life. It would change the lives of my family and my future children. Institutional Aid would mean my dreams will not be deferred but they will be a successful reality.

C4D files this petition on behalf of the organization and its members, many of whom struggle to pay for college at Connecticut universities and colleges because they are unable to apply for institutional financial aid. Petitioner requests the promulgation of the regulation herein proposed to ensure that undocumented students who attend Connecticut high schools have the financial resources necessary to attend college and achieve a better future for themselves, their families, and the state of Connecticut.

### III. DISCUSSION

#### **A. Public Policy Benefits of Financial Aid for Undocumented Students**

There are 1.35 million undocumented children under the age of eighteen in the United States.<sup>5</sup> Each year, nearly 80,000 of these children turn eighteen, and about 65,000 graduate from high school.<sup>6</sup> Unfortunately, many of these students do not attempt to enroll in college because, without access to financial aid, post-secondary education costs are insurmountable.<sup>7</sup> With the passage of Bill No. 6390 in 2011, Connecticut became the twelfth state<sup>8</sup> to provide undocumented students with access to in-state tuition rates. The availability of lower, in-state rates has undoubtedly enabled many undocumented students to obtain a post-secondary education. Nevertheless, college attendance will remain a financial impossibility for many undocumented students unless state

---

<sup>5</sup> DEP'T OF HOMELAND SECURITY, OFF. OF IMMIG. STAT., ESTIMATES OF THE UNAUTHORIZED IMMIGRANT POPULATION RESIDING IN THE UNITED STATES: JANUARY 2011, at 6 (2011), available at [https://www.dhs.gov/xlibrary/assets/statistics/publications/ois\\_ill\\_pe\\_2011.pdf](https://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf)

<sup>6</sup> Youngro Lee, *To Dream or Not To Dream: A Cost-Benefit Analysis of the Development, Relief, and Education For Alien Minors (DREAM) Act*, 16 CORNELL J.L. & PUB. POL'Y 231, 232 (2006-2007).

<sup>7</sup> *Id.* at 232-33.

<sup>8</sup> Conn. Gen. Stat. § 10a-29. California, Colorado, Illinois, Kansas, Maryland, Minnesota, Nebraska, New Mexico, New York, Oklahoma, Oregon, Rhode Island, Texas, Utah, and Washington also allow undocumented students to pay in-state tuition rates. In Maryland, undocumented students are eligible to pay in-state tuition rate at community colleges only. Oklahoma repealed its original legislation that allowed undocumented students to pay in-state rates and replaced this statute with one that allows the Oklahoma Board of Regents to determine the eligibility of undocumented students. The Board of Regents allows all students who meet the qualifications of the original statute to receive in-state tuition rates. *Undocumented Student Tuition: State Action*, National Conference of State Legislatures, <http://www.ncsl.org/research/education/undocumented-student-tuition-state-action.aspx> (last visited Feb. 12, 2014);

governments begin to provide them with the opportunity to apply for financial aid. Too many talented students in Connecticut are unable to realize their dreams of going to college to best contribute to the state where they grew up.

The State of Connecticut continues to struggle with widespread inequality in educational performance at every level. College-attendance rates among minority students in Connecticut trail behind those of white students. Although college-attendance rates increased for every demographic nationwide between 1980 and 2011,<sup>9</sup> the gap between the college-attendance rates of white and minority students has also risen. Parents' wealth exerts a significant influence on college-attendance rates as well, with poorer students lagging behind their wealthier peers.<sup>10</sup> The college-attendance rates of low-income students still have not reached the rate of high-income students in the mid-1970s.<sup>11</sup> These national figures mask the shameful achievement gap that currently exists between wealthy and poor students in Connecticut, which has the largest achievement gap in the country.<sup>12</sup> Students who lack legal immigration status are particularly vulnerable to these trends. They face educational barriers not only as a consequence of their racial and socioeconomic backgrounds, but also because their legal status makes financing higher education extremely difficult.

Increasing access to college for all students, particularly minority students with fewer economic resources should be and is a top priority for the state.<sup>13</sup> Making college more affordable will have a positive effect on the state's economy. Any increase in education spending to raise college graduation rates (which would be minimal since institutional aid comes from tuition paid by students and not tax dollars) "would be more than offset by savings in public health and welfare expenditures and increased tax revenues resulting from higher incomes of these immigrants."<sup>14</sup> In 1999, education researchers Georges Vernez, Richard Krop, and Peter Rydell calculated that a 30-year-old Mexican college graduate will pay \$5300 more in taxes and cost \$3900 less in government expenses each year than a high school dropout who shares similar characteristics.<sup>15</sup> In other words, as of twelve years ago, an immigrant who graduated from college saved the government \$9200 every year.<sup>16</sup> In a 2001 study, George Vernez further determined that

---

<sup>9</sup> CHILDSTATS.GOV: FORUM ON CHILD AND FAMILY STATISTICS, *available at* <http://childstats.gov/americaschildren/edu6.asp>.

<sup>10</sup> WILLIAM J. GAMMEL, LATINOS IN HIGHER EDUCATION: INTRODUCTION TO ACCESS TO SUCCESS (2011), *available at* [http://www.ccsu.edu/uploaded/websites/Graduation\\_and\\_Retention\\_Council/Latinos\\_in\\_Higher\\_Education.pdf](http://www.ccsu.edu/uploaded/websites/Graduation_and_Retention_Council/Latinos_in_Higher_Education.pdf).

<sup>11</sup> *Id.*

<sup>12</sup> JACQUELINE RABE THOMAS, NATION'S REPORT CARD: CT CONTINUES TO SHOW LARGEST ACHIEVEMENT GAP (Nov. 8, 2013), *available at* <http://ctmirror.org/nations-report-card-ct-continues-show-largest-achievement-gap/>.

<sup>13</sup> *See infra* Part III.C.

<sup>14</sup> Michelle A. Wheelhouse, *Second Class Students: Federal Limits on State Benefits for Higher Education*, 12 J. GENDER RACE & JUST. 655, 685 (2009).

<sup>15</sup> GEORGES VERNEZ, RICHARD A. KROP, C. PETER RYDELL, CLOSING THE EDUCATION GAP: BENEFITS AND COSTS (1999).

<sup>16</sup> *Id.*

simply doubling the number of bachelor's degrees for Hispanics, who make up the vast majority of the undocumented immigrant population, would result in a \$7.6 billion increase in tax contributions, a \$5.4 billion decrease in public spending for social welfare, health, and law enforcement programs, and a \$14 billion increase in Hispanics' disposable income throughout their lifetime.<sup>17</sup>

Those numbers are surely much higher today. In 2012, Giovanni Perri found that increased foreign born workers raise the average statewide wage.<sup>18</sup>

Furthermore, the economic productivity of the United States is related to the education levels of its population. In 2007, the U.S. Government Accountability Office (GAO) found that ninety percent of the country's "fastest-growing jobs" require a post-secondary education.<sup>19</sup> GAO reported that the high cost of a college education is "discouraging large numbers of individuals, particularly minority and low-income individuals" from pursuing post-secondary education.<sup>20</sup>

Finally, a lack of education among undocumented immigrants may contribute to the high unemployment rate nationally and in Connecticut. The Bureau of Labor Statistics (BLS) calculated that workers who lacked a high school diploma in 2012 earned an average of only \$652 per week and had an unemployment rate of 8.3%, while students with a college degree earned \$1,165 per week and had an unemployment rate of only 4.0%.<sup>21</sup>

Data on the fiscal impact of in-state tuition laws also suggests that providing financial aid might actually increase state educational revenues. In *Wasted Talent and Broken Dreams: The Lost Potential of Undocumented Students*, Roberto Gonzales reports that California, Texas, New York, Utah, Washington, Oklahoma, Illinois, Kansas, New Mexico, and Nebraska "have not experienced a large influx of new immigrant students that 'displaces' native-born students or added financial burdens on their educational systems."<sup>22</sup> In fact, Gonzales argues that allowing undocumented students to access in-state tuition rates tends to increase education revenues because it enables students who would not otherwise attend college to enroll in post-secondary programs, pay tuition, and

---

<sup>17</sup> Lee, *supra* note 1, at 257 (citing GEORGE VERNEZ & LEE MIZELL, GOAL: TO DOUBLE THE RATE OF HISPANICS EARNING A BACHELOR'S DEGREE (2001)).

<sup>18</sup> Giovanni Peri, *The Effect of Immigration on Productivity: Evidence from US States*, 94 Rev. of Econ. & Stat. 348 (2012).

<sup>19</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, REPORT ON HIGHER EDUCATION: TUITION CONTINUES TO RISE, BUT PATTERNS VARY BY INSTITUTION TYPE, ENROLLMENT, AND EDUCATIONAL EXPENDITURES (2007).

<sup>20</sup> *Id.*

<sup>21</sup> BUREAU OF LABOR STATISTICS, SPOTLIGHT ON STATISTICS: 2013: INTERNATIONAL YEAR OF STATISTICS (December 2013), available at <http://www.bls.gov/spotlight/2013/statistics/home.htm>.

<sup>22</sup> Roberto G. Gonzales, *Wasted Talent and Broken Dreams: The Lost Potential of Undocumented Students*, 5 IMMIGR. POL'Y IN FOCUS 9 (2007).

therein add to the state's education coffers.<sup>23</sup>

Expanding college access by increasing the availability of financial aid will also have a positive effect on high school graduation rates, thereby helping to narrow one indicator of the achievement gap.<sup>24</sup> Although these facts hold true for all students regardless of immigration status, their implications are particularly dramatic for undocumented students, who are currently unable to access any form of financial aid.

The General Assembly took a laudable first step towards expanding college access for undocumented students in 2011 when it passed the in-state tuition law. However, many students are still unable able to pay the full cost of tuition, which reaches \$12,022 at the University of Connecticut and between \$7,572 and \$10,276 at Connecticut State Universities. Permitting undocumented students to access financial aid will ensure that the legislature's in-state tuition reform achieves its intended effect and the state reaps the benefits that necessarily flow from promoting educational equity.

### **B. Authority for Rule-making**

The Office of Higher Education (OHE) has the duty to “[e]stablish state-wide policy pertaining to student financial assistance” and to “establish procedure[s] by regulation, for the award of financial assistance.”<sup>25</sup> It is vested with the statutory authority to “review and approve applications for financial assistance” and has a legal duty to “increase the availability of the state financial assistance programs to all segments of the state population, with significant attention to those with special needs.”<sup>26</sup> Thus, OHE has the ability to direct any system within Connecticut to make rules governing the educational systems, and a duty to direct them to make rules to implement favorable financial aid policies for the benefit of undocumented students who have special needs.

#### *For State Universities and Community Colleges:*

Many talented Connecticut students who lack legal immigration status are unable to access higher education because it remains prohibitively expensive. At the same time, Connecticut law permits institutions of higher education to grant these students certain forms of financial aid. Unfortunately, these institutions have not taken advantage of this statutory flexibility to maximize college access for all qualified students. The Board of Regents can establish a policy directing state universities and community colleges to administer institutional aid in a manner that does not discriminate against students on the basis of their immigration status. Such a policy would have a dramatic effect on the

---

<sup>23</sup> *Id.*

<sup>24</sup> JOHN M. BRAXTON ET AL., MAKING THE CONNECTIONS: CONNECTING STATE AND INSTITUTIONAL POLICIES TO IMPROVE STUDENT SUCCESS, available at [http://www.vanderbilt.edu/lpo/connections/connections\\_final\\_report.pdf](http://www.vanderbilt.edu/lpo/connections/connections_final_report.pdf). See also Michelle A. Wheelhouse, *Second Class Students: Federal Limits on State Benefits for Higher Education*, 12 J. GENDER RACE & JUST. 655, 685 (2009).

<sup>25</sup> Conn. Gen. Stat. § 10a-161 (2013).

<sup>26</sup> *Id.*



educational opportunities of undocumented students because institutional aid is by far the largest component of financial aid offered to Connecticut college students.<sup>27</sup>

The Board of Regents, in its capacity as the Board of Trustees for the Connecticut State University system,<sup>28</sup> has the power to establish “state-wide policy and guidelines” to. Conn. Gen. Stat. § 10a-89. The Board is authorized to “make rules for the government of the Connecticut State University System and . . . determine the general policies of the university system, including those concerning the admission of students and the expenditure of the funds of institutions under its jurisdiction within the amounts available.” *Id.*

Similarly, in the community college system, Conn. Gen. Stat. § 10a-72 authorizes the Board of Regents to establish “state-wide policy and guidelines” in its role as the Board of Trustees for Community Colleges. Again, the Board has the power to “make rules for the governance of the regional community-technical colleges, determine the general policies of said colleges, including those concerning the admission of students, and direct the expenditure of said colleges’ funds within the amounts available.” Conn. Gen. Stat. § 10a-72(b)(1). Therefore, the Board of Regents has the ability to make rules to govern the implementation of financial aid policies. As a result, the Board of Regents could lawfully interpret the statutes permitting the Connecticut State Universities and Community Colleges to grant institutional aid in a manner that makes these institutions as financially accessible as possible to all eligible students.

Additionally, state law permits both the Community Colleges and State Universities to set aside from its “anticipated tuition revenue an additional amount equal to one percent of said tuition revenue for students who would not otherwise be eligible for financial assistance but who do have a financial need as determined by the [institution].”<sup>29</sup> Institutional aid, including the one percent set aside for needy students otherwise unable to access financial aid, derives from students tuition dollars. This means that institutional aid would not derive from state or taxpayer money. The Board of Regents can establish a policy that directs such aid to be made available to undocumented students who may not otherwise be eligible for institutional aid.

The Board has not done so, however. Instead, it has established a policy that bars undocumented students from applying for all forms of financial aid—even those funds for which they are eligible under state law and have paid into through tuition. The Board has offered no justification for its arbitrary and even discriminatory refusal to act. Its silence has had profound effects on the welfare of Connecticut’s undocumented students, who are legally entitled to apply for financial aid resources that they cannot in practice access.

---

<sup>27</sup> In 2010, Connecticut colleges and universities provided \$181 million in need-based aid to their students, CONNECTICUT HIGHER EDUCATION: SYSTEM TRENDS 2011 at 39, *available at* <http://www.ctdhe.org/info/pdfs/2011/2011SystemTrends.pdf>.

<sup>28</sup> Conn. Gen. Stat. § 10a-88.

<sup>29</sup> Conn. Gen. Stat. § 10a-77(f); Conn. Gen. Stat. § 10a-99(f) (2013).

Even if the Board creates a policy to make institutional aid and the one percent set-aside aid available to undocumented students, institutions will face a challenge in determining the financial need of undocumented students under existing practices. All institutions currently require students to fill out a Free Application for Federal Student Aid (FAFSA) form in order to determine that student's financial need.<sup>30</sup> In order to submit a FAFSA form, a student must have a Social Security number.<sup>31</sup> State law does not require institutions to use any specific need analysis system in regards to institutional and one-percent aid. Therefore, the Board of Regents is free to direct institutions to determine the financial need of students who do not have a Social Security number using the FAFSA methodology rather than the FAFSA form.

*For UConn:*

Although, as outlined above, the Board of Regents has authority to direct the Board of Trustees for the University of Connecticut to establish rules, the Board of Trustees can independently create a policy directing UConn campuses to administer institutional aid in a manner that does not discriminate against students on the basis of their immigration status. This policy would provide equal access to Connecticut's flagship university for highly qualified but arbitrarily denied undocumented students.

Pursuant to Conn. Gen. Stat. § 10a-104(a), the Board of Trustees "shall . . . make rules for the government of the university and shall determine the general policies of the university . . . and shall direct the expenditure of the university's funds within the amounts available." The Board of Trustees thus has authority to interpret the statutes permitting the University of Connecticut to grant institutional aid in a manner that makes these institutions as accessible as possible to all eligible students.

As with State Universities and Community Colleges, Connecticut law provides for the creation of University of Connecticut institutional aid<sup>32</sup> and a one percent set-aside.<sup>33</sup> Therefore, nothing prevents the Board of Trustees from directing the University of Connecticut not to discriminate against recipients who do not qualify for state aid and make such aid available to undocumented students. To facilitate eligibility, the Board should also direct universities to determine financial need of students who do not have a Social Security number using the FAFSA methodology rather than the FAFSA form. We also urge the Board of Trustees of the University of Connecticut to enact these rules through their individual authority.

### **C. Alignment with Connecticut's Higher Education Goals**

The Planning Commission for Higher Education commissioned by the Board of Regents is charged with several goals that can be accomplished by the promulgation of these rules. The commission aims to increase the number of students in Connecticut and

---

<sup>30</sup> <http://www.ct.edu/admission/finaid>

<sup>31</sup> <https://fafsa.ed.gov/help/before003.htm>

<sup>32</sup> Conn. Gen. Stat. § 10a-105 (2013)

<sup>33</sup> *Id.* § 10a-105(g) (2013).

eliminate Connecticut’s higher education achievement gap for minority students. Conn. Gen. Stat. § 10a-11b. The Planning Commission is tasked with recommending changes to policies including financial aid towards these goals. *Id.* The Commission aims to “address[] the educational needs of minority students and nontraditional students, including...immigrants, in order to increase enrollment and retention.” *Id.* Finally, the Commission aims to “address[] the affordability of tuition at institutions of higher education and the increased student indebtedness.” Governor Malloy recently advocated for greater affordability in state colleges in order to increase access to higher education.<sup>34</sup> The Governor committed \$135 million to the Board of Regents to further this goal. We encourage the Board of Regents to heed these signals from the legislature and governor by promulgating these proposed rules.

The proposed rules advance these goals of minority and immigrant inclusion and accessibility. Connecticut currently holds one of the largest educational attainment gaps between white and minority students across the nation.<sup>35</sup> Allowing undocumented students access to institutional aid would increase racial and socioeconomic diversity while increasing enrollment at state colleges and universities. Students not previously able to strive for higher education because of financial barriers could now enroll.

#### IV. OTHER STATES SUCCESSFULLY OFFER FINANCIAL AID TO UNDOCUMENTED STUDENTS

The Board of Regents should feel comfortable promulgating the proposed rules based on success stories in other states. Currently, Texas, California, New Mexico, and Minnesota allow undocumented students access to financial aid.<sup>36</sup> Three of these states have much larger undocumented populations than Connecticut yet still offer financial aid to undocumented students. In 2001, Texas became the first state to allow undocumented students to apply for state financial aid. Under Texas law, all students who the Texas Higher Education Coordinating Board defines as “residents” are eligible to receive state financial aid.<sup>37</sup> According to the Coordinating Board, a resident is someone who graduated from high school in Texas or received the equivalent of a high school diploma in Texas and maintained a residence continuously in Texas for at least three years prior to high school graduation.<sup>38</sup> In addition to the high school graduation and three-year

---

<sup>34</sup> HUGH MCQUADE, *Malloy Commits to Higher Ed, Hopes Future Governors Will Too*, CT NEWS JUNKIE (Feb. 12, 2014).

<sup>35</sup> U.S. DEPARTMENT OF EDUCATION, THE NATION’S REPORT CARD: WHAT STATES ARE CLOSING ACHIEVEMENT GAPS? (2013), *available at* [http://nationsreportcard.gov/reading\\_math\\_2013/#/state-gaps](http://nationsreportcard.gov/reading_math_2013/#/state-gaps).

<sup>36</sup> Furthermore, in January 2013, the Democratic majority in the New York State Assembly endorsed the New York DREAM Act, a bill that would allow undocumented students to receive state financial aid. Kirk Semple, *Democrats in Albany Propose Giving Illegal Immigrants Access to Aid for*, N.Y. TIMES, Jan. 16, 2013.

<sup>37</sup> 3 Tex. Educ. Code § 56.304 (2011).

<sup>38</sup> 19 Tex. Admin. Code § 21.24(a)(1) (2011). In contrast to the requirements for undocumented students, the Coordinating Board requires U.S. citizens only to live in Texas for one continuous

residency requirements, in order to be eligible for state financial aid in Texas an undocumented student must also submit an affidavit “stating that [he or she] will apply to become a Permanent Resident of the U.S. as soon as the person becomes eligible to apply.”<sup>39</sup> The number of undocumented students who qualify for Texas state financial aid grants is small: in 2007, only 9,062 of the 1,102,572 (0.82%) students enrolled in Texas post-secondary schools were reported as “residents” under the residency provisions of the Texas state financial aid statute.<sup>40</sup> In 2012, the number of students meeting statutory requirements for establishing Texas resident status for in-state tuition totaled 20,049, or about 1.1 percent of the total public institution enrollment.<sup>41</sup>

In 2011, California became the third state to offer undocumented students access to state financial aid. The California state financial aid bill consisted of two parts: AB 130 and AB 131. AB 130 enables undocumented students to access private, non-state funded financial aid starting January 1, 2012. AB 131, on the other hand, allows undocumented students to apply for state-funded financial aid beginning January 1, 2013. Any student who is eligible for in-state tuition in California is also eligible for the benefits of AB 130 and 131.<sup>42</sup> Thus, in California, all undocumented students eligible for in-state tuition are eligible for state financial aid under AB 130 and 131.

Under AB 131, the funds provided to undocumented students’ do not limit the financial resources available to resident students. AB 131 specifically states that “[t]he number of financial aid awards received by California resident students from financial aid programs administered by the segments shall not be diminished as a result of the application of [this bill].”<sup>43</sup> Despite this provision, AB 131 has a more meaningful impact on undocumented students than AB 130 because it provides them with access to Cal Grants and other state-funded grants and scholarships.<sup>44</sup> Through AB 131’s California Dream Act Application, the financial needs of undocumented students are calculated in the same manner as any other student receiving California state financial aid.

---

year preceding the census date of the academic year in which they enroll in a post-secondary institution. *Id.* § 21.24(a)(2). The same is true of U.S. citizens who are dependents of Texas residents. *Id.* § 21.24(a)(3). Specifically, the regulation states that a person must “maintain[] domicile continuously in the state for the 12 months immediately preceding the census date of the academic semester in which the person enrolls in an institution.” Undocumented immigrants cannot establish “domicile” for the purposes of the regulation. *Id.* § 21.24(c).

<sup>39</sup> *Id.* § 21.25(a)(1)(B) (2011).

<sup>40</sup> *Overview: Residency and In-State Tuition*, TEXAS HIGHER EDUCATION COORDINATING BOARD, <http://www.theceb.state.tx.us/reports/PDF/1528.PDF> (last visited Feb. 23, 2014).

<sup>41</sup> *Overview: Eligibility for In-State Tuition and State Financial Aid Programs*, TEXAS HIGHER EDUCATION COORDINATING BOARD,

<http://www.theceb.state.tx.us/download.cfm?downloadfile=2D2C5F84-09C9-550E-49E69832108AA381&typename=dmFile&fieldname=filename> (last visited Feb. 23, 2014).

<sup>42</sup> A.B. 130, 2011 Leg. Reg. Sess. (Cal. 2011); A.B. 131, 2011 Leg., Reg. Sess. (Cal. 2011).

<sup>43</sup> *Id.*

<sup>44</sup> *Frequently Asked Questions about AB 131 (California Dream Act II)*, UNIVERSITY OF CALIFORNIA MERCED, [http://financialaid.ucmerced.edu/sites/financialaid.ucmerced.edu/files/page/documents/ab\\_131\\_fa\\_q\\_-\\_postable\\_0.pdf](http://financialaid.ucmerced.edu/sites/financialaid.ucmerced.edu/files/page/documents/ab_131_fa_q_-_postable_0.pdf) (last visited Feb. 14, 2014).

The third state that offers undocumented students access to financial aid is New Mexico, which passed its state financial aid statute on April 8, 2005. This statute first states “[a] public post-secondary educational institution shall not deny admission to a student on account of the student’s immigration status.”<sup>45</sup> The statute then declares that

[a]ny tuition rate or state-funded financial aid that is granted to residents of New Mexico shall also be granted on the same terms to all persons, regardless of immigration status, who have attended a secondary educational institution in New Mexico for at least one year and who have either graduated from a New Mexico high school or received a general educational development certificate in New Mexico.<sup>46</sup>

Thus, in New Mexico, the bar to financial aid for undocumented students is lower than that of Texas and California: undocumented students must only attend one year of high school in New Mexico and obtain the equivalent of a New Mexico high school diploma before they are eligible for state financial aid. Because New Mexico extends financial aid, lottery scholarship eligibility, and resident tuition to undocumented students, it is the most generous post-secondary education provider in the country.<sup>47</sup>

In May 2013, Minnesota became the latest state to expand in-state tuition and state financial aid to undocumented students through the “Path to Prosperity Act.”<sup>48</sup> Starting June 1, 2013, undocumented students may apply for state financial aid if they attended a Minnesota high school for at least 3 years, graduated from a Minnesota high school (or earned a GED in MN), registered with the U.S. Selective Service, and provided documentation to show that they applied for lawful status if possible under federal law.<sup>49</sup>

The Minnesota legislature emphasized the importance of such legislation. State Senator Sandy Pappas stated that the Prosperity Act “is really important for a small number of students, but it’s very symbolic for a lot of immigrant students who dare to dream that they, too, can get a college education.”<sup>50</sup> Reflecting on the past expansion of access to financial aid in other states, State Senator Patricia Torres noted, “This is a national and local trend all over the country.”

This petition for rulemaking calls for an even narrower type of financial aid than that of Minnesota, New Mexico, Texas, and California. C4D’s proposals for reform would merely: 1) create an application pathway so that undocumented students can apply

---

<sup>45</sup> N.M. Stat. Ann. § 21-1-4.6 (West 2005).

<sup>46</sup> *Id.*

<sup>47</sup> Michael A. Olivas, *The Political Economy of the DREAM Act and the Legislative Process: A Case Study of Comprehensive Immigration Reform*, 55 WAYNE L. REV. 1757, 1771 (2009).

<sup>48</sup> Minn. Stat. § 136A.101, -103.

<sup>49</sup> *Id.* § 135A.103.

<sup>50</sup> Mark Brunswick, *Minnesota Senate boosts undocumented students’ college dreams*, STAR TRIBUNE, May 2, 2013.

for the institutional aid to which they are already otherwise statutorily entitled; and 2) allow undocumented students to access institutional financial aid. In contrast, Minnesota, California, New Mexico, and Texas allow undocumented students access to not only institutional aid, but also state financial aid. Similarly, although these four states opted for a legislative remedy, Connecticut statutes already grant state agencies of higher education, including the Board of Regents, the Board of Trustees, and the Office of Higher Education, the power to promulgate these rules.

## V. PROPOSALS FOR REFORM

For the above reasons, Connecticut Students for a Dream proposes that the Office of Higher Education, the Board of Regents, and the Board of Trustees declare and establish, either by policy or formal rulemaking, that:

- Undocumented students are legally eligible for all forms of institutional aid. This rule should specifically provide that undocumented students are eligible for institutional aid from all Connecticut institutions of higher education, including The University of Connecticut and all campuses thereof, the Connecticut State University System, and the regional community colleges.
- All Connecticut institutions of higher education not statutorily barred from doing so should offer institutional aid to all students, including The University of Connecticut and all campuses thereof, the Connecticut State University System, and the regional community colleges. These institutions would be prohibited via policy or formal rulemaking from limiting students' eligibility for financial aid solely on the basis of their immigration status.
- All Connecticut institutions of higher education should make funds available for undocumented students under Conn. Gen. Stat. §§ 10a-77(f), -99(f), and -105(g), which allow these institutions to "set aside" one percent of their tuition funds for students not otherwise eligible for aid.
- All Connecticut institutions of higher education should make available application forms for financial assistance that do not discriminate on the basis of immigration status (i.e., that do not require applicants to submit Social Security numbers). These forms may be based on the FAFSA form and adopt its needs analysis formula.