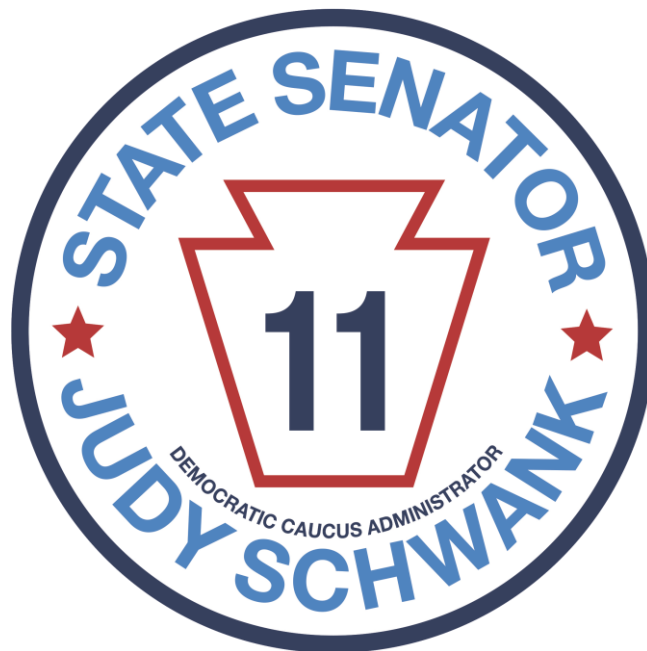


**Analysis of State Policy: Teaching Certifications, Occupational Licenses and In-State Tuition for Immigrants**



**Office of Senator Judy Schwank  
March 16, 2021**

## Summary

17 states in the United States allow undocumented individuals to work as educators. The authority over who is eligible to teach in each state varies, so state legislatures do not always need to pass legislation to authorize teaching licenses for undocumented teachers, some states allow school boards to make those decisions. Others rely on a Board of Regents to craft education policy. States that allow undocumented teachers are not all controlled by Democrats, some Republican-controlled states have allowed occupational licenses to non-citizens as well.

States that allow non-citizens to teach in their schools benefit from increased diversity and more easily fill positions that lack qualified candidates, like dual and foreign language courses. Allowing undocumented teachers in schools in Pennsylvania can also help close the gap seen in the Commonwealth between the percentage of Latino students and teachers. Currently, 1.1 percent of teachers in the Commonwealth are Latino while 12.1 percent of students are. Some of Pennsylvania's largest cities are home to large populations of Latino students. Some of the school districts in these cities are struggling to fill positions as a result of the teacher shortage the Commonwealth currently faces. Specific areas where shortages are prevalent are dual and foreign language courses, roles that Deferred Action for Childhood Arrival recipients have helped fill in other states. Demand for these roles is expected to continue to grow as states across the country see an increase in English learning students. Pennsylvania is no exception with 61,000 English learning students across the Commonwealth.

Economically, allowing qualified undocumented teachers to teach in our schools provides a boost to our economy by increasing their earning potential, thus increasing their taxable income, and by providing a return on investment to the state and local governments that helped fund their K-12 education. Offering undocumented student in-state tuition at state system universities is a way to further grow the Commonwealth's economy by decreasing student loan debt for undocumented individuals, increasing college enrollment among Latinos while boosting Pennsylvania's State System of Higher Education's faltering enrollment numbers. Furthermore, workforce development studies predict that by 2026, the Commonwealth will have too few workers with post-secondary degrees to meet workforce needs.

Finally, the Covid-19 pandemic has exposed the critical role undocumented workers play in the food and healthcare sectors. Without these workers risking their health, these two crucial sectors would be undermanned. As a result, they have been disproportionately impacted by Covid-19 even while being denied occupational licensing and in-state tuition opportunities in most states.

### **Actions Taken by Other State**

Undocumented teachers are unable to attain the required certifications to teach in most states in the US. Undocumented teachers living in states that do not allow them to gain the necessary certifications are faced with relocating to another state or joining Teach for America. According to Teach for America, only 17 states and the District of Columbia (DC) permit Deferred Action for Childhood Arrivals (DACA) recipients to be certified and placed in schools [1].

Each state has different governing bodies that are responsible for crafting education policy. In New York, for example, the Board of Regents decided to allow certificates for DACA teachers, not the state legislature [2]. In Texas, a state that has filed multiple lawsuits challenging the legality of DACA, independent school boards are free to decide who can teach in their schools. School boards representing densely populated, diverse cities like Houston, Dallas, Fort Worth and San Antonio allow DACA teachers in their schools through Teach for America [1]. Denver's Public School system was among the first to actively recruit DACA teachers [3]. These teachers have come to make up a vital part of teaching staffs in some of these states, contributing greatly to school diversity and often coming with skills needed to teach dual-language courses.

A smattering of other states allows non-citizens to obtain occupation licenses in fields like law, dentistry, or other areas where they face a shortage of qualified workers. This includes deep-red states like South Dakota and Wyoming [4]. Below are a few examples of what educational licensing policy looks like in other states.

- **California-** California was early to act on allowing non-citizens to receive occupational licenses. In 2014, the state legislature passed a bill allowing all individuals who have completed the required training to receive an occupational license regardless of immigration status. Individuals without a Social Security Number (SSN) may apply using Individual Tax Identification Number (ITIN) [5].
- **Illinois-** Similar to California, Illinois passed legislation in 2015 stating that state officials could not deny an individual a professional license solely based on their immigration status. Teaching licenses are included in this legislation [5].
- **Nebraska-** In April of 2016, the Nebraska state legislature passed legislation that would allow DACA recipients to apply for over 170 professional occupation licenses in the state [6]. The legislature passed the bill over objections from Republican Governor Pete Ricketts. Ricketts vetoed the bill, but the State Senate voted to override his veto and the bill became law. Republicans had firm control over the Senate at the time holding 35 of the 49 seats. Republican State Senator Les Seiler justified his support for the bill by saying, "we raise them, we educate them and then we tell them to go across the river and practice in Iowa. That should never happen" [7].

- **Nevada-** Nevada expanded state law to allow DACA recipients to receive teaching licenses in 2015. Before passing unanimously in the state legislature, Nevada allowed the state superintendent to give teaching licenses to qualified non-citizens when faced with teacher shortages [8]. In 2019, the law was further amended to expressly prohibit state officials from denying an application for all professional licenses based solely on immigration status. Applicants can apply using an ITIN number in place of a SSN [5].
- **New York-** In May of 2016, the New York State Board of Regents permanently adopted regulations to allow DACA recipients to apply for teaching certifications and other professional licenses [2]. The Board of Regents presides over New York State universities and the state's education department. They had the power to take this action without the state legislature. Supporters of the board's decision said the move would help them retain talented professionals, boost the state economy and attracted DACA recipients from other states. The Director of City University of New York Law School, Natalie Gomez-Velez, expressed her support by telling the New York Times "New York has invested educational resources in these students, and it made no sense not to get the return on the investment" [9].

### **Benefits of Certifying Undocumented Teachers**

In 2020, the Supreme Court of the United States (SCOTUS) denied the Trump Administration's attempt to end legal protections for DACA recipients. If the ruling had gone the other way, an estimated 20,000 teachers across the country would have lost their protected status [10]. Multiple national education groups stated that such a ruling would have had significant negative effects on students [11]. For one, DACA teachers often end up teaching at schools that need their skills the most. DACA teachers teaching in Texas as a part of Teach for America, for example, are working in school districts that are underserved, diverse and populated by many undocumented students. Numerous studies have found that students do better when taught by teachers who are a racial or ethnic match [12][13] [14].

The same is true for undocumented students. In testimonials for Teach for America, DACA teachers have expressed how important it is for undocumented student's development to have teachers who understand the uncertainties they face daily [15]. A 2018 study from the National Bureau of Economic Research found that since DACA the educational outcome of undocumented immigrant youths has improved significantly. This includes a 15 percent increase in high school graduation rates, a three percent increase in the school attendance of high school-age students, and a 22 percent increase in college enrollment among Hispanic women [16]. Increased opportunities for undocumented teachers would allow Pennsylvania to build on these positive trends. While the numbers since the DACA executive order have looked up, there is still room for improvement. The Migration Policy Institute (MPI) finds that while 125,000

undocumented individuals turn high school graduation age each year in the US, only 98,000 graduate [17].

In addition to the benefits to undocumented students, allowing DACA recipients and others with a valid immigrant work status to be licensed could help address the Commonwealth's poor teacher diversity, especially among Latinos. MPI reports that as of September 2020, 4,490 DACA recipients live in Pennsylvania. MPI estimates the total eligible population to be around 15,000 statewide [18]. The Education Trust, a national non-profit that studies teacher diversity and equality in each state, rates that Pennsylvania does not meet diversity standards in two key areas:

- Make educator diversity data visible and actionable to stakeholders [19].
- Invest in educator preparation programs to increase enrollment and improve the preparation for teachers of color [19].

Furthermore, the Education Trust finds that while 12.1 percent of students in the Commonwealth are Latino, only 1.1 percent of teachers are [19]. Similarly, 14.5 percent of students are black while only 3.8 percent of teachers are [19]. Allowing undocumented teachers to work in schools is one way to help close the diversity gap between students and teachers. In the Reading School District, 80 percent of the student population is Latino [20]. Allentown City and Lancaster City School Districts both have Latino populations over 60 percent [20].

### **Pennsylvania Teacher Shortage**

Pennsylvania has found itself needing more teachers over the past decade. Lack of teacher retention and a decrease in new certificates sought are a big part of the problem in the Commonwealth. 45 percent of teachers are leaving the profession within the first five years of being hired [21]. Specific areas are hurting as well. Pennsylvania struggles filling both substitute and special education teaching roles [21]. With such problems, prohibiting undocumented individuals who are qualified and eager to teach from doing so makes little sense.

The pandemic is making matters worse. Pennsylvania is one of a handful of states that are grappling with the challenges of finding substitutes during the pandemic. Older substitutes have been less willing to come in and sub in person during the pandemic. Also, some older teachers have opted to retire early rather than return during the pandemic [22]. Some states, like Illinois, which is dealing with problems similar to Pennsylvania, have raised sub-pay and recruited college students for sub positions [23]. HB 412 passed in the Pennsylvania House unanimously earlier this month. The bill seeks to address the sub shortage by allowing individuals with an inactive certification to work for 120 days during the school year up from 90 [24]. HB 412 is at best a short-term fix to get us through this school year. The passage of SB 165 would do much more to bolster Pennsylvania schools in the long-term.

Additionally, among the subjects currently listed by the Pennsylvania Department of Education (PDE) as shortage areas are English and Second Language and Foreign Languages [25]. In other states, undocumented teachers have played a vital role in filling vacancies for dual and foreign languages courses [26]. In states across the country, the number of English learning students continues to increase [27]. Having dual-language teachers who can help get them up to speed is critical for their academic development. According to PDE, there are 61,000 English learners speaking more than 200 languages in Pennsylvania [28]. Also, the Allentown City School District, which has a student body that is over 60 percent Latino, is among those with the greatest number of shortages [25].

### **Economic Benefits**

Pennsylvania public schools spend \$16,396 per pupil, ninth-most in the country [29]. The Commonwealth invests a considerable amount in each student, including undocumented ones. Those who choose to go on and study education at the college level only to be locked out of the profession after graduation will either seek jobs outside teaching or relocate. Either way, the Commonwealth is not capitalizing on its investment in these students by driving them out of the state or forcing them into positions that limit their earning potential. By not allowing undocumented teachers to use their degrees in-state, the total tax dollars they could potentially contribute is reduced. This is made all the more puzzling by the growing teacher shortage the Commonwealth currently faces.

### **In-State Tuition**

Another challenge undocumented individuals face in the Commonwealth is the absence of in-state tuition rates at state universities. 17 states and DC offer in-state tuition to undocumented individuals [30]. Eleven also offer state financial assistance [30]. Studies have found that undocumented individuals living in states that offer in-state tuition have a greater chance of graduating from high school than those living in states that offer no in-state tuition [31]. Another study finds that in-state tuition has a positive impact on Latino graduation and college enrollment [31][32]. According to Pennsylvania's State System of Higher Education (PASSHE), in-state tuition for most students comes in at \$7,716 while out-of-state tuition can range from \$10,032 to \$19,290 [33]. These numbers do not include room and board, books, or any other associated fees.

Prohibiting undocumented students from Pennsylvania from receiving in-state tuition at state system schools is questionable given PASSHE's notable enrollment problems. Enrollment at Pennsylvania's 14 state universities is down 20 percent since 2010 [34]. Diversity could also be better. Underrepresented minorities make up 19 percent of the student population and only 10 percent of faculty and staff [35]. Presumably, Pennsylvania would see an increase in enrollment among Latinos just as other states have by allowing undocumented students to receive in-state tuition. Furthermore, a workforce needs assessment published by PASSHE finds that by 2026, 54 percent of the 6.3 million jobs in the Commonwealth will require some amount of post-secondary preparation, emphasizing the need for more post-secondary prepared workers in Pennsylvania's workforce [36]. In 2016, when the report was published, 37 percent of Pennsylvania residents had a college degree. Given the shortage specific to teachers, PASSHE's enrollment problems and the overall need to develop the Commonwealth's

workforce, passing in-state tuition for undocumented individuals should be a priority in the state legislature and would make a nice companion piece of legislation for SB 165.

### **Frontline Workers During the Pandemic**

Throughout the Covid-19 pandemic, undocumented individuals have played a crucial role as essential workers across the country, often putting themselves at significant risk of contracting the virus. It is estimated that 389,000 undocumented workers work in farming or food processing centers, performing functions vital to maintaining our nation's food supply during the pandemic [37]. Food centers have seen some of the highest concentrations of Covid-19 outbreaks in the country [37]. Additionally, 225,000 undocumented workers have been treating patients in the healthcare sector during the pandemic and another 119,000 have been performing essential custodial or administrative roles in healthcare workplaces [37]. To put it plainly, the US has been bailed out by undocumented workers during the pandemic even as they are denied opportunities to achieve occupational licenses and receive in-state tuition in most states. Many of Pennsylvania's 114,000 undocumented workers find themselves working jobs where social distancing is very difficult [38]. The Commonwealth has relied on these workers most during these unprecedented times. Rather than take their contributions to Pennsylvania for granted, we should acknowledge how important they have been during the pandemic and the positive economic contributions they have made to the Commonwealth for decades.

## References

- [1] Teach for America- DACA Recipients, n.d.  
<https://www.teachforamerica.org/how-to-join/eligibility/daca>
- [2] New York State Education Department- Board of Regents Permanently Adopts Regulations to Allow DACA Recipients to Apply for Teacher Certification and Professional Licenses, May 17, 2016  
<http://www.nysed.gov/news/2016/board-regents-permanently-adopts-regulations-allow-daca-recipients-apply-teacher>
- [3] Denver Public Schools- Denver Public Schools DACA Statement, June 19, 2020  
<https://www.dpsk12.org/denver-public-schools-daca-statement/>
- [4] Morse, Ann, National Conference of State Legislatures- Professional and Occupational Licenses of Immigrants, January 17, 2017  
<https://www.ncsl.org/research/immigration/professional-and-occupational-licenses-for-immigrants.aspx>
- [5] Williams, Christy, CLINIC- Professional and Occupational Licenses for Immigrants, August 22, 2019  
<https://cliniclegal.org/resources/state-and-local/professional-and-occupational-licenses-immigrants>
- [6] Walton, Don, Lincoln Journal Star- Senators Override Ricketts' Veto on Young Immigrants Licensure Bill, April 20, 2016  
[https://journalstar.com/legislature/senators-override-ricketts-veto-on-young-immigrant-licensure-bill/article\\_a2d6d276-cde0-5d26-a893-dd472c55dc44.html](https://journalstar.com/legislature/senators-override-ricketts-veto-on-young-immigrant-licensure-bill/article_a2d6d276-cde0-5d26-a893-dd472c55dc44.html)
- [7] Mathema, Silva, What DACA Recipient Stand to Lose- and What State can do About it, September 13, 2018  
<https://www.americanprogress.org/issues/immigration/reports/2018/09/13/458008/daca-recipients-stand-lose-states-can/>
- [8] Escalante, Juan, America's Voice- Nevada Grant Teaching Licenses to DACA Beneficiaries, May 13, 2015  
<https://americasvoice.org/blog/nevada-grants-teaching-licenses-to-daca-beneficiaries/>
- [9] Robbins, Liz, New York Times- For Undocumented Immigrants, a License to Teach, May 31, 2016  
<https://www.nytimes.com/2016/06/01/nyregion/new-freedom-to-advance-for-a-new-york-teacher-born-abroad.html>
- [10] Kirsch, Zoe, The 74 Million- DACA Teachers Across the Country Embrace SCOTUS Ruling Allowing Them to 'Live Work Without Fear', June 18, 2020  
<https://www.the74million.org/article/daca-teachers-across-the-country-embrace-scotus-ruling-allowing-them-to-live-work-without-fear/>



- [11] Marra, Ashton, State Impact Ohio- National Teacher Groups Push for DACA Protections, November 20, 2017  
<https://www.wbur.org/hereandnow/2017/11/20/daca-teacher-groups>
- [12] Cain Miller, Clarie, New York Times- Does Teacher Diversity Matter in Student Learning?, September 10, 2018  
<https://www.nytimes.com/2018/09/10/upshot/teacher-diversity-effect-students-learning.html>
- [13] Partelow, Lisette, Center of American Progress- America Needs More Teachers of Color and a More Selective Teaching Profession, September 14, 2017  
<https://www.americanprogress.org/issues/education-k-12/reports/2017/09/14/437667/america-needs-teachers-color-selective-teaching-profession/>
- [14] National Council on Teacher Quality- Teacher Diversity, n.d.  
<https://www.nctq.org/policy-area/Teacher-Diversity>
- [15] Emerson Collective- How Teach for America Empowers DACAmented Teachers, October 2016  
<https://www.emersoncollective.com/articles/2016/10/how-teach-for-america-empowers-dacamented-teachers>
- [16] Kuka, Elira, Shenhav, Na'ama, Shih, Kevin, National Bureau of Economic Research- Do Human Capital Decisions Respond to the Returns to Education? Evidence from DACA, February 2018  
[https://www.nber.org/system/files/working\\_papers/w24315/revisions/w24315.rev0.pdf](https://www.nber.org/system/files/working_papers/w24315/revisions/w24315.rev0.pdf)
- [17] Zong, Jia, Batalova, Jeanne, Migration Policy Institute- How Many Unauthorized Immigrants Graduate from U.S. High Schools Annually? April 2019  
<https://www.migrationpolicy.org/research/unauthorized-immigrants-graduate-us-high-schools>
- [18] Migration Policy Institute- Deferred Action for Childhood Arrivals (DACA) Data Tools, n.d.  
<https://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles>
- [19] The Education Trust- Pennsylvania Report Card, n.d.  
<https://edtrust.org/educator-diversity/>
- [20] PennLive Editorial Board, PennLive- Six Things you Need to Know About Hispanics in Pennsylvania, September 16, 2019
- [21] Gwynedd Mercy University- Pennsylvania's Teacher Shortage, n.d.  
<https://www.gmercyu.edu/academics/learn/pennsylvanias-teacher-shortage>

[22] Hart Research Associates- Parents' and Teachers' Views on Reopening Schools, August/September, 2020

[https://www.aft.org/sites/default/files/survey\\_school-reopening\\_augsept2020.pdf](https://www.aft.org/sites/default/files/survey_school-reopening_augsept2020.pdf)

[23] Shahbazi, Rudabeh, ABC News 27- Pandemic Making Pennsylvania's Teacher Shortage Even Worse, January 22, 2021

<https://www.abc27.com/news/health/coronavirus/coronavirus-pennsylvania/pandemic-making-pennsylvania-teacher-shortages-even-worse/>

[24] Pennsylvania General Assembly- HB 412 Regular Session 2021-2022

<https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2021&sInd=0&body=H&type=B&bn=412>

[25] Pennsylvania Department of Education- Pennsylvania Teaching Shortage Areas and Federal Loan Forgiveness Programs, n.d.

<https://www.education.pa.gov/Teachers%20-%20Administrators/Teacher%20Quality/Pages/PATeachShortage.aspx>

[26] Solis, Dianne, Barragan, James, Dallas Morning News- U.S. Could Lose an Estimated 20,000 Teachers, Many Bilingual, as DACA is Phased Out

<https://www.dallasnews.com/news/immigration/2017/10/05/u-s-could-lose-an-estimated-20000-teachers-many-bilingual-as-daca-is-phased-out/>

[27] Mahnken, Kevin, The 74 Million- Why the Race to Find Bilingual Teachers? Because in Some State, 1 in 5 Students is an English Learner, September 25, 2017

<https://www.the74million.org/why-the-race-to-find-bilingual-teachers-because-in-some-states-1-in-5-students-are-english-language-learners/>

[28] Pennsylvania Department of Education- Educating English Learners, n.d.

<https://www.education.pa.gov/Teachers%20-%20Administrators/Curriculum/English%20As%20A%20Second%20Language/Pages/default.aspx>

[29] Education Data- U.S. Public Education Spending Statistics, n.d.

<https://educationdata.org/public-education-spending-statistics>

[30] National Conference of State Legislatures- Tuition Benefits for Immigrants, March 1, 2021

<https://www.ncsl.org/research/immigration/tuition-benefits-for-immigrants.aspx>

[31] Nunez, Amy, Holthaus, Gretchen- In-State Tuition for Undocumented Students: A Policy Analysis, n.d.

<https://spa.education.indiana.edu/journal/editions/2017/4%20In%20State%20Tuition%20for%20Undocumented%20Students.pdf>

[32] Daroli, Rajeev, Potochnick, Stephanie, Review of Higher Education: Journal of the Association for Study of Higher Education- Educational “when,” “where,” and “how” implications of in-state resident tuition policies for Latino undocumented immigrants, Summer 2015

<https://muse.jhu.edu/article/584488>

[33] Pennsylvania’s State System of Higher Education- Can I afford College?, n.d.

<https://www.passhe.edu/students/Pages/Cost.aspx>

[34] Snyder, Susan, Philadelphia Inquirer- Projected First-Year Enrollment Down at Pennsylvania’s 14 State Universities, June 11, 2020

<https://www.inquirer.com/education/state-system-university-enrollment-pennsylvania-deposits-20200611.html>

[35] Pennsylvania’s State System of Higher Education- DEI Data Dashboard, n.d.

<https://www.passhe.edu/inside/BOG/IE/Pages/DEI-Data-Dashboard.aspx>

[36] Pennsylvania’s State System of Higher Education- Key Findings from Pennsylvania’s State System’s Workforce Needs Assessment, 2016-2026, n.d.

<https://www.passhe.edu/SystemData/Documents/Pennsylvania-Workforce-Needs-Assessment-Memo.pdf>

[37] Jawetz, Tom, Center for American Progress- Immigrants as Essential Workers During COVID-19, September 28, 2020

<https://www.americanprogress.org/issues/immigration/reports/2020/09/28/490919/immigrants-essential-workers-covid-19/>

[38] Prchal Svajlenka, Nicole, Center for American Progress- Protecting Undocumented Workers on the Pandemic’s Front Lines, December 2, 2020

<https://www.americanprogress.org/issues/immigration/reports/2020/12/02/493307/protecting-undocumented-workers-pandemics-front-lines/>