

# Implementation of College In-State Tuition for Undocumented Immigrants in New York

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## Executive Summary

In 2002, New York became the fourth state to offer in-state tuition rates to certain undocumented immigrants enrolling in its public postsecondary institutions. Although enacted over seven years ago, a thorough analysis of the implementation of this policy has not been conducted.

Undocumented immigrants in the U.S., most of them Latino, encounter economic and social barriers that discourage their college access: in particular, low incomes, inadequate secondary school academic preparation, lack of information about postsecondary opportunities, and fear of deportation. In the context of these barriers, in-state tuition eligibility for undocumented immigrants is an important means to ensure greater college access. Further, this policy may make a notable contribution, given the low incomes of many undocumented students and their sensitivity to tuition differences.

This qualitative case study explored how New York's in-state tuition policy is being implemented for undocumented immigrants at two community colleges within the City University of New York (CUNY) system.

This investigation discovered that CUNY has devoted its own resources in the development of workshops, training sessions, manuals, and centers to assist in the implementation of this measure. Also, this study found that — while these colleges and CUNY overall have made a commitment towards the successful implementation of this policy — undocumented immigrants still face barriers in obtaining in-state tuition rates. Specifically, undocumented immigrants encounter the following hurdles in their pursuit of in-state tuition:

- College-level staff's lack of knowledge about in-state tuition policy and sometimes insensitivity toward undocumented immigrants;
- Limited information on the part of undocumented students regarding in-state eligibility;
- Fear of applying for in-state tuition because of their immigration status.



## Introduction

An estimated 65,000<sup>1</sup> undocumented students graduate from high school each year in the U.S. (Passel, 2003) Some – perhaps even many – of these students seek postsecondary education but fail to enroll due to various barriers that lay before them. In order to reduce the financial barrier, a few states have passed policies to extend in-state tuition to certain members of this population. However, one cannot assume that such policies guarantee undocumented immigrants' postsecondary education access or make the process trouble-free. Indeed — as the literature informs us — undocumented immigrants face significant barriers in their pursuit of higher education.

This qualitative single case study will highlight New York's in-state tuition policy, and specifically how two groups of stakeholders (state-level officials and local-level actors) perceive its implementation. This study will explore how this policy is being implemented in two community colleges in the City University of New York (CUNY). To achieve its end, this paper has been divided into the following sections: background, purpose of study, research design, findings, and recommendations.

## Background

Free elementary and secondary public education is guaranteed for all undocumented immigrants under federal law. The historic 1982 Supreme Court pronouncement in *Plyler v. Doe* ensured free K-12 public education for undocumented immigrants. The Court, in a 5-4 decision found Section 21.031 of Texas's Education Code unconstitutional. Writing for the Court, former Justice William J. Brennan noted that it was the parents of undocumented children — not the children — who chose to come to the U.S. and thus their children should not be punished for a decision beyond their control. Additionally, the majority decision emphasized that the denial of a basic education would disengage the undocumented child from society.

[B]y denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation. (*Plyler v. Doe*, 1982, p. 223)

*Plyler v. Doe* provided an entry for undocumented immigrants in their pursuit of education. However, for many, options fade when policies at the federal, state, or both levels hinder their access to postsecondary education. In fact, almost immediately after the *Plyler v. Doe* decision was rendered the question arose whether undocumented immigrant college students would be guaranteed any postsecondary rights under the same decision. (Olivas, 2005) To date, no federal law has been enacted to ensure undocumented immigrants any postsecondary benefits, including in-state tuition. In response, a handful of states have passed policies to permit (or restrict) undocumented immigrants from receiving certain higher education benefits.

Since 2001, eleven states (California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma,<sup>2</sup> Texas, Utah, Washington, and Wisconsin) have passed laws that permit certain undocumented immigrants to pay in-state tuition. The annual savings for undocumented immigrants who pay in-state versus out-of-state tuition in these states ranges from approximately \$5,000 to \$17,000. (Fischer, 2004) Of these states, only two (New Mexico and Texas) allow eligible undocumented immigrants to also partake in its state financial aid programs.

In 2002 — with the passage of Assembly Bill 9612 (A9612) and Senate Bill 7784 (S7784) — New York became the fourth state to permit certain<sup>3</sup> undocumented immigrants to pay in-state tuition in its State University of New York (SUNY) and City University of New York (CUNY) systems. Interestingly — prior to passage of this legislation — some SUNY

and all CUNY institutions had permitted undocumented immigrants to pay in-state tuition. In 1989, New York City (NYC) Mayor Edward Koch issued an executive order that permitted all undocumented immigrants in the city to be eligible for services, which extended to higher education. (Rincon, 2008) This order made CUNY one of the first postsecondary institutions in the U.S. to openly permit undocumented immigrants to pay in-state tuition.

Yet, in 2001, CUNY overturned its policy. This decision was made in spite of the estimated 2,788 undocumented students that were enrolled in CUNY at that time. (Kobach, 2007) CUNY senior administrators cited federal legislation<sup>4</sup> as the rationale for reversing its institutional policy. Notably, xenophobic sentiment sparked by 9/11 (Authors' Interviews #1, #3; Worth, 2002) and surmounting pressure from outspoken State Senator Frank Padavan (Authors' Interview #3; Worth, 2002) may have pressured CUNY into making this decision.

Those undocumented immigrants attending two-year colleges saw tuition rise from \$1,250 to \$1,538 per semester, while for those in the system's four-year colleges, tuition increased from \$1,600 to \$3,400 per semester. (Wilson, 2001) Faculty, students, and interest groups lobbied to overturn this change in policy. (Authors' Interviews #3, #6; Worth, 2002) Protests and hunger strikes occurred on several CUNY campuses, including outside its central administrative offices.

In 2002, in response to this shift in policy several legislators<sup>5</sup> introduced legislation (S7784 and A9612) in New York's legislative bodies to permit certain undocumented immigrants to pay in-state tuition. Both bills were introduced at the request of the Republican Governor at that time, George Pataki. (New York State Assembly, 2002; New York State Senate, 2002) Governor Pataki was outwardly supportive of the measure (Authors' Interviews #11, #17), and was quoted as saying:

“This legislation reinforces New York's proud legacy as a bastion of hope and opportunity by ensuring access to a high-quality, affordable higher education for hard-working immigrants.” (as cited in Hebel, 2002) While that may be true, a highly placed state official noted that Pataki

was trying to get re-elected. And he was trying to get support from a large Hispanic community in New York City. And one of the things that they had on their agenda was this question of in-state or out-of-state tuition....In return for support, he agreed to support legislation that would provide [undocumented immigrants] in-state tuition. (Authors' Interview #17, p. 2)

Interestingly, while student organizations and other groups at CUNY were supportive of this measure, neither the CUNY nor SUNY systems voiced their support of this legislation. (Authors' Interview #17)

New York State — one of only ten states that offer in-state tuition to certain undocumented immigrants — provides an excellent case study to explore the implementation of such legislation. The state, in particular New York City, has long been an immigrant destination in which its colleges have embraced the importance of educating this population. Although New York has passed in-state tuition legislation for undocumented immigrants, it cannot be assumed that simply the presence of this policy will guarantee that undocumented immigrants will enroll in higher education. The following section will detail the aim of the study, including the research questions that guided this investigation.

### **Purpose of Study**

The objective of this investigation is to understand how New York's in-state tuition policy is being implemented for undocumented immigrants. To explore this phenomenon, two groups of individuals were interviewed, state-

level officials<sup>6</sup> and local-level officials.<sup>7</sup> While no undocumented immigrants were requested to participate, the perception of that group was gathered from local-level officials. The insights of both sets of officials will provide a glimpse into how each has been involved with or affected by the manner in which this policy has been shaped and implemented for this specific population.

This study was guided by two overarching research questions. Below is each research question followed by some related issues that will be pursued in this investigation.

- (1) How has New York's in-state tuition policy been implemented by colleges?
- (2) How successful has this policy been?
  - (a) What measures have helped its implementation?
  - (b) What barriers have hindered its implementation?

The first question asks about the administrative processes associated with the in-state tuition policy. It explores the role of the state in this policy's implementation. Also, this question will illustrate the admissions and residency verification processes that undocumented immigrants must undergo to be eligible to receive in-state tuition. Equally important, it will detail how local-level officials have implemented the state's in-state tuition policy for undocumented immigrants. The second question will analyze how successful the implementation of this policy has been. Namely, it will describe those measures that have both helped and hindered the administration of this policy.

### Research Design

This study was based on a single-case study research design. (Baxter & Jack, 2008; Yin, 2003) The ensuing will describe the research sites selected and the type of data collected in this investigation.

### Research Sites Selected

As mentioned beforehand, New York is one of a small handful of states that permit a certain segment of its undocumented immigrants to pay in-state tuition rates. Furthermore, a comprehensive study that has examined the implementation of New York's in-state policy for this specific group does not appear to exist.

New York City was selected as the locality to be studied due to its large and diverse undocumented immigrant population, estimated at over 652,000. (Beveridge, 2006) Further, New York City's public higher education system, The City University of New York (CUNY), has made a strong vow to educate immigrants. (City University of New York, 1995)

Two CUNY community colleges — Newtown Community College and Middleville Community College (pseudonyms) — located in two distinct boroughs of New York City served as the college-level research sites. Neither institution reports the number of undocumented students enrolled. Therefore, the percentage of foreign-born students, which both colleges maintain, was used as a proxy to estimate the proportion of undocumented immigrants that may be enrolled in each institution. Newtown's percentage of foreign-born is a little bit higher than the average among all CUNY community colleges, which is 49.3%. (City University of New York, 2008a) Middleville, on the other hand, has a foreign-born enrollment that is over 8% lower than CUNY's community college average. The rationale for selecting these types of institutions is that those institutions with higher percentages of foreign-born students may be more attuned to the needs of that population. Whereas, an institution with a lower proportion of foreign-born may be less adept to the demands of this group. It is hypothesized that differing proportions of foreign-born students will result in richer data.

## Data Collection

Two types of data were collected in this study. Interviews are the principal data source for this study. Document and archive data such as newspaper articles, academic journals, institutional reports and websites, organizational charts, and applications for admission, were also obtained.

Close to 20 individuals were interviewed in this study. State-level officials such as legislators (or their staff), education department personnel, and interest group representatives were interviewed. At the local-level, interviews were conducted with CUNY central administration officials,<sup>8</sup> community college staff (e.g., presidents, admissions, outreach personnel, and registrar staff), community-based organization representatives, and other local stakeholders. Each semi-structured interview was guided by an interview protocol that contained open-ended questions that address the following areas: background of the interviewee; knowledge of the undocumented immigrant policy environment; perception of the implementation process; and thoughts on the future of the in-state tuition policy in New York.

## Findings

Six themes emerged during data analysis: the state's involvement with this policy's implementation, local administrative procedures associated with policy implementation, measures to assist its implementation, definition and degree of success associated with this policy's implementation, barriers that hinder its implementation, and evaluation of this policy's implementation.

The state, as will be outlined below, has had practically no involvement with the implementation of this policy. Instead, CUNY and SUNY were charged with its implementation. With CUNY as the example, a section will be devoted to describe the application and residency verification processes that undocumented immigrants wishing to receive in-state

tuition must undergo. Next, efforts made by CUNY and support groups towards the goal of effective implementation will be highlighted. Furthermore, the definition and level of success as it relates to this policy's implementation — as perceived by the interviewees — will be delineated. Also, three barriers that have hindered the successful implementation of this policy will be detailed: lack of knowledge and negative attitudes of staff, limited information available to undocumented immigrants about the in-state policy, and fear of deportation on the part of undocumented immigrants. Finally, the lack of a formal evaluation of the implementation of this policy will be discussed.

## State Role in Policy Implementation

To qualify for in-state tuition, A9612/S7784 note that a student must meet one of these conditions: (1) attend a New York high school for at least two years, have graduated, and apply to SUNY or CUNY within five years of graduation; (2) attend a New York General Educational Development (GED) exam preparation, receive a New York GED, and apply to SUNY or CUNY within five years; or (3) have been enrolled at a SUNY or CUNY school during the fall 2001-2002 academic year and have received (or been authorized to receive) in-state tuition rates at that time. (New York State Assembly, 2002; New York State Senate, 2002) In addition,

a student without lawful immigration status shall also be required to file an affidavit with such institution or educational unit stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so. (New York State Assembly, 2002, p. 1; New York State Senate, 2002, pp. 1-2)

The responsibility associated with implementation — rulemaking or oversight — of this enabling legislation<sup>9</sup> was not assigned to any

government agency such as the New York State Education Department. (Authors' Interviews #4, #18) Instead, this legislative decision focused on CUNY and SUNY, and gave these systems the power to implement the new law. Also, the bills did not outline any resources — financial or staff — that should go towards its implementation. (Authors' Interviews #4, #7, #8, #10, #11, #13, #17) The following will outline the centralized application for admission system at CUNY and residency verification process, and associated issues that an undocumented applicant will likely confront.

### CUNY Administrative Procedures

It is evident that many CUNY staff recognize CUNY's role as an institution that provides postsecondary education access and attempts to foster an immigrant-friendly institution to immigrant students. (Authors' Interviews #1, #4, #5, #8, #9, #10) It is precisely these types of implementers that the literature (see Appendix A) identifies as instrumental in shaping and developing processes at the local level. To better understand the issue of in-state tuition at the local level it is important to understand two processes — application and residency verification — that are central in understanding the issue of in-state tuition. These processes will be highlighted next.

**Application process.** CUNY has a centralized admissions application process for all its undergraduate college programs, including community colleges. The majority of students submit their applications for admission using this centralized online application system.<sup>10</sup> (Authors' Interviews #8, #11, #13) The online application system allows students to submit their application for admission to as many as six CUNY colleges. (City University of New York, 2010b)

Under the student information section of this undergraduate application, applicants must indicate if they are a U.S. citizen or not. (City University of New York, 2010b) If they de-

sire, they may enter their country of citizenship and country of birth. Further, they have the option to enter their Alien Registration Card Number or if they are in the country with a visa, they may enter visa-related information. Lastly, there is a field entitled "Other, Explain."<sup>11</sup> In that area, undocumented applicants may enter that they are undocumented. (Authors' Interview #13) While an undocumented applicant may enter that information there, it is not clear if college administrators actually review or use that data.

Applicant information is then transmitted to colleges, where admissions decisions are made. Those applicants that indicate they are non-U.S. citizens are coded by the individual college information systems, for tuition purposes, as out-of-state. It is then the responsibility of undocumented students to submit necessary documentation so they may be changed in the information system as eligible for in-state tuition. Generally, the only documentation that undocumented applicants seeking in-state tuition need to provide is a CUNY Residency Form. (See Appendix B) Undocumented applicants are required to complete both Part A and Part B of this form. Part A requests general student information, including a social security number, citizenship status, immigration and visa status, and information related to New York State high school attendance. Further, based on the responses to those questions the form indicates what additional steps may need to be pursued by the individual. For those undocumented students that are eligible for in-state tuition the form instructs them to complete Part B, an affidavit. As the legislation requires, students must pledge that they will "file an application to legalize [their] immigration status or will file such an application as soon as [they are] eligible to do so." (City University of New York, 2010c) This form is used throughout all CUNY. (Authors' Interview #2) The next section will outline what office within CUNY handles the residency verification and the steps undocumented students must undergo to be switched — for tuition purposes

— from out-of-state to in-state.

**Residency verification.** Generally, the Office of Admissions or Office of Admissions and Recruitment at each CUNY institution is responsible for administering the residency verification process for new students. (Authors' Interviews #1, #5, #11, #13) This typically entails collecting the Residency Forms, verifying students' eligible for in-state tuition, and then changing their classification in the College's information system.

One college interviewed, Middleville Community College, prior to the start of each semester sends a hardcopy letter to all students that are scheduled to pay out-of-state tuition.

(Authors' Interview #11) This letter indicates that they may be eligible for in-state tuition. Further, it details the criteria to be eligible for in-state tuition and the procedure students must undertake to be reclassified as eligible to receive in-state tuition. Enclosed in this letter is the affidavit that undocumented students are required to submit. On the other hand, it appears that Newtown Community College does not make a proactive effort to contact individuals that may be eligible for in-state tuition prior to the start of the semester in order to change their tuition classification.

CUNY-wide, if undocumented students do not make this change prior to the start of the semester they do have the ability to get it changed after they receive their tuition bill. (Authors' Interview #11) However, if students do not rectify the matter within the same semester enrolled they may not be entitled to a refund of the difference between out-of-state and in-state tuition. (Authors' Interview #13)

### Measures to Assist Implementation

CUNY overall, as outlined previously, is an institution that embraces its role in educating immigrant students, including those that are undocumented. This institutional culture has helped establish some mechanisms — mainly in the form of workshops, training sessions,

and manuals — to communicate the availability of in-state tuition for certain undocumented immigrants. Also, The CUNY Citizenship and Immigration Project, has evolved into an office that CUNY staff can use as a resource to get questions answered about the interpretation of the in-state tuition policy and where undocumented immigrants may seek assistance in the event they are not being charged in-state tuition. While a number of resources are obtainable within CUNY, additional assistance is available outside, primarily through community-based organizations. These resources — present to assist with the implementation of this policy — are outlined in more detail below.

**CUNY initiatives and services.** CUNY has focused its efforts in its attempt to assist with implementation within two areas, workshops and training sessions. The CUNY Immigrant and Citizenship Project, CUNY Central, or both, typically sponsors these activities. The sessions coordinated by The CUNY Immigrant and Citizenship Project occur every 12 to 18 months and are geared towards enrollment services staff — those individuals that work in offices such as admissions, financial aid, and registrar. Meanwhile, the CUNY Central trainings occur approximately six to eight times a year and are focused on general professional development for staff (e.g., financial aid, how to conduct yourself in an interview, among many other topics). One of these sessions is devoted to the issue of residency. (Authors' Interviews #1, #8) These sessions are not mandatory. It is at the discretion of the director in offices such as admission and registrar to designate whom should attend these sessions.

In addition to training sessions for its staff, CUNY coordinates workshops for the community that focus on issues related to college access, including the topic of in-state tuition availability for certain undocumented immigrants. These workshops have been organized for staff, students, or both at local high schools, the Mexican Consulate in NYC, and

community-based organizations. (Authors' Interviews #3, #9)

Another initiative has been CUNY Central's efforts to have each individual campus administer a uniform residency verification process for its students. This includes encouraging colleges to use the same form, the CUNY Residency Form. (Authors' Interviews #3, #11) To achieve this goal of consistency, CUNY developed a Tuition and Fee Manual — available online — that communicates policies to local-level staff. This manual, as stated by some interviewees, has helped make the implementation of this policy uniform. (Authors' Interviews #5, #8) As its title reveals, this manual outlines information related to tuition and fees for CUNY personnel to reference. Chapter 2 of this manual, entitled residency, details the parameters where certain undocumented immigrants can qualify for in-state tuition. (City University of New York, 2010c) Furthermore, the CUNY Residency Form (see Appendix B), discussed previously, is appended to the manual.

Furthermore, within CUNY several offices or channels exist to help undocumented immigrants receive information about in-state tuition or to assist those students that encounter problems. First and foremost, The CUNY Immigrant and Citizenship Project<sup>12</sup> has been key in communicating the in-state tuition policy to different constituents, such as undocumented immigrants and CUNY staff. (Authors' Interviews #3, #4, #7, #9) This office receives calls from CUNY staff throughout all its campuses to help with the interpretation of the in-state tuition policy; mainly to see if a student should be eligible for that benefit. (Authors' Interview #4) A community-based organization official described the function of this office as: "working to get legal information and services to immigrant students and also to better inform staff of problems and barriers... encountered by immigrant students." (Authors' Interview #9, pp. 7-8)

***Non-CUNY initiatives and services.*** Some community-based organizations and interest groups have coordinated initiatives to address the issue of undocumented immigrants and in-state tuition eligibility. For example, one community-based organization that focuses on issues related to undocumented immigrants and education investigated the discrepancies in how individual CUNY institutions were implementing the in-state tuition policy. (Authors' Interviews #7, #9) This organization contacted enrollment service offices (i.e., admissions and financial aid) of all CUNY institutions and found that most staff at these offices was incorrectly communicating undocumented immigrants' eligibility for in-state tuition. This information was later used to advocate on behalf of some undocumented immigrants that had been incorrectly charged out-of-state tuition.

As it relates to services available to this population, some advocacy assistance is available in NYC to help undocumented immigrants confront these challenges. For example, an undocumented student that was unjustly charged out-of-state tuition contacted a community-based organization for advocacy assistance. This organization attempted to get the community college — not one of those interviewed in this study — to refund the student for the differential of tuition levels for those semesters that she was overcharged. The community-based organization was not entirely successful in its work. They were able to get the college to agree to refund only part of the money the student had overpaid over several semesters. This organization went a step further and attempted to get this institution to develop a refund policy and communicate it in the event there were other students in that same situation. The community-based organization was not successful in its attempt to get a refund policy established. The next section will focus on the issue of success, and more specifically the manner in which individuals define it and the level of success that staff perceives in relation to this policy's implementation.

## Definition and Degree of Implementation Success

While no clear definition of success emerged, interviewees were able to develop different meanings. As it relates to this policy's level of success, in general, CUNY central and college-level officials perceive the implementation of this policy to be successful. On the other hand, individuals external to CUNY such as community-based organizations were more critical of the success of this policy's implementation. However, before outlining how successful individuals perceive the implementation of this policy to be it is important to detail how interviewees define success.

*Definition of implementation success.* Interestingly, there was no clear meaning by interviewees on a definition of this policy's success. Recognizing the lack of a method to track the success of this policy, an admissions staff member noted the complexity and absence of a success measure in the following manner:

It has been successful [at our institution] ...but it is really hard to measure that. Because you really don't keep track or account of how many letters we send out to undocumented students (to perhaps change their tuition status) and how many came back to actually correct their status. (Authors' Interview #11, p. 8)

Because of this difficulty, some CUNY staff interviewed defined the measure of success within the context of diminishing complaints, mostly by undocumented immigrants. (Authors' Interviews #4, #11)

Meanwhile, community-based organizations failed to outline a definition of implementation success. However, as will be described later, those organizations have been quite critical of the success of this policy's implementation.

*Degree of implementation success.* While no consistent definition of implementation suc-

cess emerged in this investigation, many respondents still perceived the implementation of this policy to be successful.

Overall, middle-level staff at the community colleges interviewed reported that the implementation of this policy has been successful. (Authors' Interviews #2, #5, #8, #11, #13) A community college registrar described the effectiveness of this policy's implementation as: "I would consider it very successful. I think most of the students that qualify are getting the in-state tuition. And we'd rather they pay the in-state tuition than the higher one." (Authors' Interview #13, p. 8) Meanwhile, a local-level admissions office official argued the policy was successful in these terms: "We haven't had many angry students in the office or any parents or City Council members contacting us on behalf of a student [not receiving in-state tuition], that hasn't happened in quite a while." (Authors' Interview, #11, p. 8) A CUNY official that is accustomed to receiving calls from undocumented immigrants not being given in-state rates described that complaints are "getting less and less common so I think we're doing a pretty good job." (Authors' Interview #4, p. 4)

Conversely, community-based organizations and interest groups were more censorious of the success of the implementation of this policy for undocumented immigrants. (Authors' Interviews #6, #7, #9) A representative of a community-based organization that focuses on issues related to undocumented immigrants and their education stated the following: "Implementation has been done very poorly, and that's why a chunk of our work is to get the information and educate the communities." (Authors' Interview #7, p. 8) Another community-based organization official described the success of this policy's implementation as:

At this point, it's only somewhat effective.... I have seen that there are students who get through with no help from a

community-based organization. And then I'm seeing that there are students who aren't getting through.... What I have no way of gauging and the idea sort of daunting and scary to me is how many students just give up because they don't know? And of course in my mind as an advocate, if one student gives up, it's too many. (Authors' Interview #9, p. 9)

One notion that may be influencing the degree of implementation success is the presence of variability that may exist with this policy's implementation. The general perception — especially by CUNY college-level staff — is that all institutions implement the in-state tuition policy in a similar manner. (Authors' Interviews #1, #2, #5, #10, #11, #13) A CUNY Central official stated that while some of their administrative policies might be administered differently, this policy was not one that should be placed in that category.

It's a CUNY-wide policy, albeit there are a lot of CUNY-wide policies that wind up getting administered differently, but no. I mean it is fairly straightforward in terms of what's required to show residency and I have never heard of any other college administering it differently.... But I think CUNY-wide, every school has a large number of immigrant students, a large number of documented and undocumented students and they are all going to administer it similarly. (Authors' Interview #11, pp. 7-8)

Although efforts have been made to implement this policy in a uniform manner, some variability may still exist in how this policy is being administered. One community-based organization representative described this variability in implementation with the following:

The problem is that every school has its own form, it has its own process to do it,

there's no standardized, formalized system for all CUNY. So every school has done its own thing so that has been a challenge because what works in one school doesn't work in the other, and the forms are not the same. (Authors' Interview #7, p. 6)

While the in-state legislation applies to all colleges in CUNY, the manner in which each institution administers it may vary. A CUNY Central Office official described this very reality:

I wouldn't say implemented differently. Some schools may, if they don't have all the answers they need, may ask for other types of proof [of residency].... With many of our policies, sometimes... there's not some uniformity. Like you'll say okay this is the policy you give the college, but then we don't say, well do it in these five steps. So people can interpret how they need to collect information in any kind of way, and I think sometimes that seems to be the issue for students. These schools require you to do one, two, three, four, five steps, and another school may require three steps for it. That's with all of our policies actually. (Authors' Interview #8, p. 7)

The apparent inconsistent manner that this policy is implemented may impact the success of this policy. For example, in the recent past, one community-based organization found some inconsistencies in the manner that the eligibility criteria were being communicated. (Authors' Interview #7) The next section will outline three barriers that exist in relation to the implementation of the in-state tuition policy for undocumented immigrants.

### **Barriers to Effective Implementation**

Undocumented immigrants may encounter barriers in their pursuit of in-state tuition related to the implementation of this policy. The barriers that undocumented immigrants may

face can be divided into three areas: limited knowledge of staff regarding the in-state tuition policy and their negative attitudes toward undocumented immigrants, scarce information available to undocumented immigrants regarding this policy, and fear of deportation that controls many undocumented immigrants' lives. Each of these barriers will be outlined below.

***Staff lack of knowledge and negative attitudes.*** While strong efforts have been made by many CUNY staff to address the needs of the undocumented immigrant population, some staff-related issues may still persist. Namely, there appears to be limited awareness of this policy and insensitivity towards undocumented immigrants by some staff.

Overall, college personnel appear knowledgeable about the in-state tuition policy and associated process to reclassify students from out-of-state to in-state. (Authors' Interviews #3, #11) However, a lack of knowledge related to the existence of this policy on the part of some CUNY staff does still exist. One interest group representative that has worked closely with some local community-based organizations voiced this sentiment with the following:

I think that [the lack of proper implementation by CUNY staff] shows us that there are issues of perhaps training and making sure that the materials are available to avoid any kind of I suppose misunderstanding of the law and the policies. I think there had been some agreement to post some of these things on the web, but I mean that doesn't mean that everyone knows what is posted on the web. So there is that issue of did the staff screw up, was it improper supervision, was it improper training. After so many years of this policy being in place we should not have to be revisiting these kinds of inconsistencies or problems. (Authors' Interview #6, p. 3)

Obviously, those staff members that are unaware of the policy or process to change tuition residency classification for students will be unable to properly communicate that information to eligible students. (Authors' Interview #9)

Also, there is evidence that some CUNY staff's personal beliefs may shape the manner in which policies are administered for the undocumented immigrant population. (Authors' Interviews #3, #4) For example, some staff may give additional assistance to undocumented students. (Authors' Interviews #4, #8, #11) A CUNY official speculates that the experiences of individual staff, the student composition present on campus, or both may influence the manner in which these implementers shape local-level implementation.

You have people who are closer to the immigrant community themselves or they have a larger number of immigrants on their campus so they're going to be more sensitive to the issue....The places that have exceptionally large numbers of immigrants are definitely sensitive to the problem. Places that don't have, many are sensitive some maybe are not. And the ones who are not it has to do with individual inadequacies rather than any broad policy. (Authors' Interview #4, p. 6)

Meanwhile, other CUNY staff may disapprove of this policy — yet not mishandle these students. A Latino interest group official described this as follows:

There are attitudes where people feel that maybe this benefit should not be enjoyed by someone who they feel is not legally here or they've overstayed their status.... [However,] I have not encountered anyone who would have the temerity to say that I disagree with the policy and therefore I will not implement it as I am supposed to, which is [his or her]

duty and obligation to. I have not had anyone say that to me. (Authors' Interview #6, pp. 3-4)

In comparison, a CUNY official described how some "gatekeepers" (i.e., key administrators) — whose responsibility is to assist undocumented immigrant applicants — were consciously placing barriers for this population.

There are some people at institutions who we refer to them as "gatekeepers" who wanted to believe that there wasn't this law on the books that it didn't exist and who were saying [to undocumented applicants], 'No, you don't have papers you can't come to the university.

Where's your green card? Where's your visa?' (Authors' Interview #3, p. 8)

To exemplify this point, a community-based organization representative described an unpleasant visit to a CUNY community college by a staff member to advocate on behalf of an undocumented student that had encountered problems with in-state tuition eligibility.

[The advocate] felt that the woman who was working at the admissions office or the financial aid office was pretty short with [the applicant], was asking her questions about whether or not her parents pay taxes and why don't they pay taxes.... And then she was sort of questioned about her own status, pretty publicly and loudly in front of a line full of people. And you know this was embarrassing to her and it was really scary and a deterrent to her. (Authors' Interview #9, pp. 4-5)

**Limited information available to undocumented immigrants.** CUNY and community-based organizations have made a concerted effort to communicate the availability of in-state tuition for undocumented immigrants through workshops, staff trainings, presenta-

tions, websites, and one-on-one interactions. In spite of these efforts, some room for improvement may still exist. (Authors' Interviews #1, #7, #13)

Regarding the level of awareness undocumented immigrants have regarding college or in-state tuition eligibility, a community-based organization representative said:

We still have people that don't know about [the in-state tuition policy], because you know the myth still exists that if you don't have your documents you can't really go [to college]. And it's a hard thing to get through. (Authors' Interview #7, p. 7)

At the local-level, one college official commented how communication regarding the in-state tuition policy could be enhanced at Newtown Community College:

You can always improve things. I think certainly communication is number one. That's paramount. We do a good job. We could do a better job. We could certainly increase communication. We could certainly update it on our web. But can we do a better job? Sure, why couldn't we have a website that specifically talks to this in language that... undocumented individuals would be more comfortable with. (Authors' Interview #1, p. 10)

To illustrate this point further, both Newtown and Middleville have limited information on their websites regarding undocumented immigrants' eligibility for in-state tuition. Newtown, in particular, has very limited information. This institution does not outline the in-state tuition policy anywhere on the institution's website. On the other hand, Middleville does outline the in-state tuition policy in one webpage. Nonetheless, both institutions fail to communicate the following aspects related to the in-state tuition policy for undocumented

immigrants: the CUNY Residency Form students are required to complete, the office responsible for in-state tuition verification, or the process that students must undergo to change their tuition residency status from out-of-state to in-state. Furthermore, none of the colleges examined in this investigation provide any information related to the in-state tuition policy or associated processes for undocumented immigrants in their Student Handbook or Catalog.

In terms of web resources at the CUNY-wide level, the undergraduate admissions homepage has eight “quick links;” one is titled “undocumented students;” if clicked it directs people to The CUNY Citizenship and Immigration Project website. (The City University of New York, 2010d) This website contains some information for undocumented immigrant students (i.e., the in-state tuition policy and financial aid opportunities available to them).<sup>13</sup>

The online application itself does not contain any links, pop-up windows, or tags that would provide any additional information to an undocumented student regarding eligibility to apply to CUNY nor the in-state tuition policy and associated administrative processes. As an illustration, under the high school/secondary school section of the CUNY online application, the following question appears: If you were home schooled, click here for more information. Beside that phrase applicants may click a question mark and a pop-up window appears with additional information. A question similar to that does not exist in the citizenship or immigration status sections of the application, which could outline more detailed information for the undocumented applicant.

***Fear of deportation.*** As the health services and postsecondary education for undocumented immigrants literatures outline (see Appendix A), fear of deportation to their country of birth is an ever-present reality in the lives of this population. This sentiment was very much present in this investigation.

First of all, undocumented immigrants are scared of seeking services in an effort to conceal their immigration status, as detailed by one CUNY official:

Not having legal residence tends to keep people in the shadows when it comes to services provided. Whether it is medical or educational services. It makes people have to tend to ask for things or to know whether they’re eligible to apply for things. (Authors’ Interview #3, p. 5)

In fact, some undocumented immigrant parents hide their immigration status so well that their children do not become aware of their immigration status until the college application process. (Authors’ Interviews #2, #7)

Many undocumented students are hesitant to reveal their immigration status to college officials. (Authors’ Interviews #1, #2, #3, #4, #5, #7, #8, #9, #10, #11) However, in order to be eligible for in-state tuition, undocumented students are required to complete an affidavit stating that they will correct their immigration status as soon as they are eligible to. In other words, reveal their undocumented status. Furthermore, CUNY applications and processes are not attuned to the fact that undocumented immigrants do not have a social security number. As will be highlighted in more detail later, the application for admission and certain scholarship opportunities — that this population is eligible for — requests the applicant to enter a social security number. Although it is not a required field, this may be a frightening experience for individuals without legal status. Indeed — as articulated by a CUNY admissions official — undocumented immigrants are often

unwilling to let [staff] know that they’re undocumented, and we don’t necessarily ask anyone are you documented or undocumented.... It is ascertained from the application itself. But when [staff] see that they sometimes get a little bit nerv-

ous, and if they don't have a social security number, which they're not going to have they get nervous. Now we have to let them know that we're not reporting them to [Homeland Security]. You can tell right away, and you can allay their fears or anxieties.... We say to them: "... Under state law everything here is confidential. You know, what we say, what you say, what you provide us in writing we don't provide it to anyone. These records are here and they don't go anywhere." (Authors' Interview #1, pp. 1-2)

Although some staff may assure students that the affidavit submission process is safe, students are still scared of this administrative process. A community-based organization well informed on issues related to the education of undocumented immigrants described this sentiment of fear.

The [undocumented] community looks at a public school and looks at a college as a government entity. They don't [want to] share information with government officials...because there is a fear of what could happen and be deported. So there's a lot of that and just...living in a constant state of fear. (Authors' Interview #7, p. 9)

As a result, some undocumented students refuse to complete the affidavit and prefer to pay the higher out-of-state tuition rate. (Authors' Interviews #10, #11) A community college president stated how some students are afraid of declaring themselves as undocumented and they choose to pay the higher tuition so that they can protect their families from any disclosure. (Authors' Interview #10, p. 3)

## Evaluation

There was no evidence of any formal state-level, CUNY-wide, or college-level evaluation of the implementation of the in-state tuition policy for undocumented immigrants.

(Authors' Interviews #1, #3, #6, #9, #10, #11, #13) Some interviewees thought that a formal evaluation of this policy should occur.

(Authors' Interviews #6, #11) Perhaps one reason a formal evaluation has not occurred — as surmised by a CUNY official — is that advocates do not want to shed light on the availability of in-state tuition for undocumented immigrants, in an attempt to avoid public backlash and the possible repeal of this legislation. (Authors' Interview #4) A second hypothesis one community college official stated as to why no formal evaluation has occurred is due to the fact that it is too early. (Authors' Interview #10) Nonetheless, over seven years have passed and to date this may be the first formal attempt to assess the implementation of New York's in-state tuition policy for undocumented immigrants.

This investigation has identified and described several elements related to this policy's implementation, including several barriers that may have hampered its success. The next section will outline some recommendations in response to the before mentioned barriers that may have hindered this policy's implementation.

## Recommendations

These recommendations may provide CUNY and other postsecondary institutions with an opportunity to reflect on issues related to: staff knowledge and sensitivity towards undocumented immigrants, outreach to undocumented immigrants, and the fear of deportation that undocumented immigrants confront daily. By addressing these barriers the goal of enhancing implementation and thus expanding educational opportunities for this population may become a reality.

*Addressing Staff Lack of Information and Negative Attitudes.* While it appears many staff are familiar with the in-state tuition policy and are sensitive to issues faced by undocumented immigrants, some room for improvement may still exist. The workshops and

trainings coordinated by CUNY and community-based organizations should continue. However, an annual training program tailored for all college enrollment services staff should focus on issues related to undocumented immigrants. For example, information related to residency requirements and processes in place at colleges to change residency classification for this population. Also, this training should be enhanced to more specifically address issues that the undocumented immigrant population face, mainly some of the barriers identified in this investigation. For example, one workshop could focus on helping staff identify and eradicate possible barriers present within CUNY that may dissuade undocumented immigrants from applying or enrolling. This workshop series should occur at a college in each of the five boroughs, in an effort to increase participation. Lastly, for this training to make an impact, all staff from enrollment service areas should be required to attend.

***Addressing Undocumented Immigrants' Lack of Information.*** While CUNY and community-based organizations have made a concerted effort to communicate the availability of in-state tuition for certain undocumented immigrants some additional outreach may be warranted. First, additional outreach could be made by community-based groups (e.g., churches, community centers, and after-school youth programs) and media outlets that undocumented immigrants come in contact with to better inform this population of the possibility of in-state tuition eligibility. Second, postsecondary institutions could develop websites that not only detail the in-state tuition policy — and those undocumented immigrants that would be eligible — but also outline the form and process that these individuals would need to complete to be eligible for in-state tuition. Third, individual institutions could develop a process similar to that of Middleville, where they contact all out-of-state classified incoming students prior to the start of the term. This would encourage students to clarify their residency classification prior to the start of the

term. With this, students would not receive a bill from the institution that details a tuition rate for which they are not responsible. This could help reduce frustration and perhaps increase the number of undocumented immigrants enrolling at the college and paying the reduced tuition rate.

***Addressing Undocumented Immigrants' Fear of Deportation*** As detailed previously, undocumented immigrants may encounter difficulties in the procedures they must undergo for residency verification. The residency verification process requires undocumented immigrants to reveal their legal status, and as the literature indicates (see Appendix A) that can be a strain on this group for fear of deportation.

With this in mind, the CUNY administrative apparatus may consider some changes to be more attuned to the needs of undocumented immigrants. First, several forms — including the CUNY Residency Form and online application for admission — ask for a social security number. Postsecondary institutions have used the social security number as a method to identify individuals, which is problematic given undocumented immigrants do not have this number. Instead, other mechanisms<sup>14</sup> can be developed by postsecondary institutions to avoid the use of a social security number to uniquely identify an applicant or student. Similarly, another CUNY process that may be intimidating to an undocumented student is the Peter Vallone Scholarship — sponsored through the New York City Council. While this scholarship — which is limited to only about \$500 per year — is open to undocumented immigrants, they are required to complete a Free Application for Federal Student Aid (FAFSA) in order to be eligible. (Authors' Interviews #2, #8) This federal application requests individuals to enter a social security number, which again undocumented immigrants do not have. The undocumented student must therefore leave that field blank. In return, the student receives information that they are

not eligible to receive any federal financial aid because they failed to enter a social security number. The mere presence of these requirements could dissuade undocumented applicants from submitting the necessary documentation to receive in-state tuition or financial assistance.

While these recommendations will certainly not address all the challenges that undocumented immigrants face, their implementation may certainly help eradicate some of the barriers that they encounter in their attempt to seek postsecondary education.

### Conclusion

CUNY, with its long history of educating immigrants in New York City, has provided an entrée for many undocumented immigrants to pursue higher education. As stated by one local-level admissions official: “It has given many [undocumented] students the opportunity to pursue their education.” (Authors’ Interview #2, p. 3)

It is evident that CUNY staff, community-based organizations, and interest groups recognize CUNY’s role as an institution that provides postsecondary education access and attempts to foster an immigrant-friendly environment for immigrant students. (Authors’ Interviews #1, #4, #5, #8, #9, #10,) A community college president interviewed captured this long-standing institutional culture: “New York City is the place where immigrants become educated Americans and that’s CUNY.” (Authors’ Interviews #10, p. 9) Specifically, as it relates to undocumented immigrants, an admissions official stated: “The City University of New York will do everything in its power to try to continue its current policies and try to influence [the] legislature to continue to allow students who may be in an undocumented status to get in-state tuition.” (Authors’ Interviews #5, p. 7) This culture has helped foster a climate that has not only welcomed but has strengthened CUNY officials and staff to be more mindful of the needs of this population.

While this is true, the number of undocumented immigrants that may have been shut out of postsecondary education may be significant due to barriers previously outlined: limited knowledge of staff or their insensitivity towards this population, scarce information available to undocumented immigrants regarding the in-state policy, and fear that undocumented immigrants’ status might be revealed. In terms of staff, some CUNY personnel are still not aware of the availability of in-state tuition to undocumented immigrants, may allow their negative attitudes towards undocumented immigrants impede the implementation of this policy, or both. Also, some undocumented immigrants are still not receiving the necessary information regarding their eligibility for in-state tuition — some of which may be attributed to the limited information provided by colleges. Lastly, undocumented immigrants’ are hesitant to share information with college officials due to fear of deportation. Sadly, some are so fearful that they prefer to pay higher out-of-state tuition rates in an effort to conceal their undocumented status.

These realities are a call for policymakers, higher education officials, and local-level implementers to begin to address these barriers in an attempt to expand educational opportunities for undocumented immigrants. This study identified three key areas that if addressed may help remove some of the barriers identified in this investigation. First, in order to address staff lack of knowledge and occasionally negative attitudes, we would argue for the development of a comprehensive workshop focused on the unique characteristics and needs of the undocumented population. Second, the apparent lack of information available to undocumented immigrants regarding this policy could be addressed by targeted outreach efforts by more community-based organizations and local colleges to better inform this population of in-state eligibility and associated administrative procedures within colleges to receive this benefit. Third, to address the fear of deportation that undocumented immigrants perceive,

higher education officials and staff may want to amend their administrative forms and processes in an attempt to be more attuned to this reality encountered by this population. State- and local-level officials have the ability to shape the implementation of in-state tuition policy, in such a way that their influence may increase the participation of undocumented immigrants in postsecondary education.

## Endnotes

<sup>1</sup> Researchers estimate that annually as many as 80,000 undocumented immigrants reach the age of 18 and have lived in the U.S. for five or more years. However, given their elevated high school dropout rate, the college-eligible estimate drops to 65,000.

<sup>2</sup> In 2007 Oklahoma rescinded its policy that permitted certain undocumented immigrants to pay in-state tuition rates.

<sup>3</sup> While this will be outlined in more detail later — for the most part — only those undocumented immigrants that attend a New York high school for two or more years and graduate from it or instead receive a New York State general equivalency diploma (GED) are eligible for in-state tuition.

<sup>4</sup> The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 — a federal policy that some argue denied states the ability to provide higher education benefits, including in-state tuition, to undocumented immigrants — was cited as the rationale to overturn CUNY's practice of permitting undocumented immigrants to pay in-state tuition.

<sup>5</sup> S7784 was introduced by State Senator Pedro Espada (Democrat-Bronx). A9612 was introduced by Assembly members Adriano Espaillat (Democrat-District 72-Manhattan/Bronx), Peter Rivera (Democrat-District 76-Bronx), Edward Sullivan (Democrat-District 69-Manhattan), Nick Perry (Democrat-District 58-Brooklyn), and Michele Titus (Democrat-District 31-Queens).

<sup>6</sup> State-level officials, for the purpose of this study, refer to state officials that shape and put into practice state education policies (e.g., legislators, executive branch officials, and state higher education officials). This category would also include state-level interest groups.

<sup>7</sup> Local-level officials refer to those individuals who shape and are involved in the day-to-day implementation of education policies. For example, at the community college level local-level officials would comprise: CUNY officials, presidents or vice presidents, outreach staff, admissions employees, and registration personnel. Beyond educational institutions, this category would also incorporate local community-based organization.

<sup>8</sup> This refers to those officials that work in CUNY-wide administrative offices such as: Institutional Research and Assessment, Student Affairs, Enrollment Management, University Registrar, and Academic Affairs. The more common term used to identify the grouping of these administrative offices is CUNY Central.

<sup>9</sup> Enabling legislation gives appropriate officials, in this case CUNY and SUNY, the authority to implement or enforce a law.

<sup>10</sup> Although not as common, students have the option of applying for admission directly to a specific college with a paper application.

<sup>11</sup> Interestingly, that box only permits applicants to enter up to ten characters to explain their immigration status if they do not fit one of the previous categories listed on the application.

<sup>12</sup> All the services provided by this office, which include immigration-related legal advice, are free and open to the entire community. There are 11 centers located throughout New York City; six of these centers are located on CUNY campuses (Hostos Community College, Medgar Evers College, City College, College of Staten Island, LaGuardia Community College, and York College) (City University of New York, 2010a).

<sup>13</sup> However, similar to the Newtown and Middleville websites it fails to disseminate the following aspects related to the in-state tuition policy for undocumented immigrants: the CUNY Residency Form students are required to complete, the office responsible for in-state tuition verification, or the process that students must undergo to change their tuition residency status from out-of-state to in-state.

<sup>14</sup> In addition to identifying an applicant by name, some examples of other identifiers are the NYC Department of Education Office of Student Information System (OSIS) number, address, and date of birth.

## References

- Anderson, J. (2003). *Public Policymaking*. Boston, MA: Houghton Mifflin.
- Baxter, P., & Jack, S. (2008). "Qualitative case study methodology: Study design and implementation for novice researchers." *The Qualitative Report*, 13(4), 544-559.
- Berk, M., Schur, C., Chavez, L., & Frankel, M. (2000). "Health care use among undocumented Latino immigrants." *Health Affairs*, 19(4), 51-64.
- Beveridge, A. (2006, April 6). "Undocumented immigrants." *Gotham Gazette*. <http://www.gothamgazette.com/print/1809>
- Biswas, R. (2005). *Access to community college for undocumented immigrants: A guide for state policymakers*. Boston, MA: Jobs for the Future. [http://www.jff.org/download.php/AccessstoCCUndoc.pdf?file=AccessstoCCUndoc.pdf&KC\\_PubID=27](http://www.jff.org/download.php/AccessstoCCUndoc.pdf?file=AccessstoCCUndoc.pdf&KC_PubID=27)
- Bowden, W. P., Rhodes, S. D., Wilkin, A. M., Jolly, C. P. (2006). "Sociocultural determinants of HIV/AIDS risk and service use among immigrant Latinos in North Carolina." *Hispanic Journal of Behavioral Sciences*, 28(4), 546-562.
- Cabrera, A., & La Nasa, S. (2002). "Hispanics in higher education." In J. F. Forest & K. Kinser, (Eds). *Higher education in the United States: An encyclopedia* (pp. 309-313). Santa Barbara, CA: Publisher.
- Chin, J., Kang, E., Kim, J., Martinez, J., & Eckholdt, H. (2006). "Serving Asians and Pacific Islanders with HIV/AIDS: Challenges and lessons learned." *Journal of Health Care for the Poor and Underserved*, 17(4), 910-927.
- City University of New York. (1995). "Immigration/migration and the CUNY student of the future." New York, NY.
- City University of New York. (2008a). "A profile of undergraduates at CUNY senior and community colleges: Fall 2008." New York, NY. [http://owl.cuny.edu:7778/portal/page/portal/oira/OIRA\\_HOME/ug\\_student\\_profile\\_f08.pdf](http://owl.cuny.edu:7778/portal/page/portal/oira/OIRA_HOME/ug_student_profile_f08.pdf)
- City University of New York (2008b). "Total enrollment by race/ethnicity and college: Percentages: Fall 2008." New York, NY: Author. [http://owl.cuny.edu:7778/ENRL\\_0015\\_RACE\\_TOT\\_PCT.rpt.pdf](http://owl.cuny.edu:7778/ENRL_0015_RACE_TOT_PCT.rpt.pdf)
- City University of New York. (2010a). "CUNY citizenship and immigration project." New York, NY. <http://www.cuny.edu/about/citizenship.html>
- City University of New York. (2010b). "CUNY portal." New York, NY: Author. <https://portal0.uapc.cuny.edu/uapc/main.jsp?iview=aonline>
- City University of New York. (2010c). "Tuition and fee manual." New York, NY. [http://portal.cuny.edu/cms/id/cuny/documents/level\\_3\\_page/024084.htm](http://portal.cuny.edu/cms/id/cuny/documents/level_3_page/024084.htm)
- City University of New York. (2010d). "Undergraduate admissions." New York, NY. <http://web.cuny.edu/admissions/undergraduate.html>
- De Leon, S. (2005). *Assimilation and ambiguous experience of the resilient male: Mexican immigrants that successfully navigate American higher education*. Austin, TX: University of Texas at Austin. PhD Diss.: 194.
- Elmore, R. (1979-1980). "Backward mapping: Implementation research and policy decisions." *Political Science Quarterly* 94(4), 601-616.
- Fischer, K. (2004). "Illegal immigrants rarely use hard-won tuition break." *The Chronicle of Higher Education*, 51(16), A19.
- Fitz, J. (1994). "Implementation research and education policy: Practice and prospects." *British Journal of Educational Studies*, 42(1), 53-69.
- Foley, E. (2005). "HIV/AIDS and African immigrant women in Philadelphia: Structural and cultural barriers to care." *AIDS Care*, 17(8), 1030-1043.
- Fry, R. (2003). "Hispanic youth dropping out of U.S. schools: Measuring the challenge." Washington, DC: PEW Hispanic Center.
- Gándara, P. (1993). "Choosing higher education: The educational mobility of Chicano students." Berkeley, CA. The California Policy Seminar.
- Gándara, P., & Contreras, F. (2009). *The Latino education crisis: The consequences of failed social policies*. Cambridge, MA: Harvard University Press.
- Goldman, D., Smith, J., & Sood, N. (2006). "Immigrants and the cost of medical care." *Health Affairs*, 25(6), 1700-1711.
- González, G. (2004). "The effects of family background, immigration status, and social context on Latino children's educational attainment." In R. Ybarra & N. López, (Eds)., *Creating alternative discourses in the education of Latinos and Latinas* (pp. 157-194). New York: Peter Lang Publishing.

- González, R. (2009). *Young lives on hold: The college dreams of undocumented students*. New York, NY: The College Board. <http://professionals.collegeboard.com/policy-advocacy/diversity/undocumented>
- Hebel, S. (2002, June 26). "N.Y. legislature passes bill to provide illegal immigrants in-state tuition rates." *The Chronicle of Higher Education*.
- Hill, M., & Hupe, P. (2002). *Implementing public policy*. Sage Publications. London, UK.
- Howlett, M., & Ramesh, M. (2003). *Studying public policy: Policy cycles and policy subsystems*. Don Mills, Ontario: Oxford University Press.
- Kalichman, S., Klein, S., Kalichman, M., O'Connell, D., Freedman, J., Eaton, L., & Cain, D. (2007). "HIV/AIDS case managers and client HIV status disclosure: Perceived client needs, practices, and services." *Health and Social Work*, 32(4), 259-267.
- Kang, E., Rapkin, B., Springer, C., & Kim, J. (2003). "The "demon plague" and access to care among Asian undocumented immigrants living with HIV disease in New York City." *Journal of Immigrant Health*, 5(2), 49-58.
- Kobach, K. (2007). "Immigration nullification: In-state tuition and lawmakers who disregard the law." *Journal of Legislation and Public Policy*, 10(3), 473-523.
- Loue, S., Cooper, M., & Lloyd, L. (2005). "Welfare and immigration reform and use of prenatal care among women of Mexican ethnicity in San Diego, California." *Journal of Immigrant Health*, 7(1), 37-44.
- McDonough, P., & Calderone, S. (2006). "The meaning of money: Perceptual differences between college counselors and low-income families about college costs and financial aid." *The American Behavioral Scientist*, 49(12), 1703-1718.
- Mehta, C., & Asma, A. (2003). "Education for all: Chicago's undocumented immigrants and their access to higher education." *Center for Urban Economic Development University of Illinois at Chicago*. Chicago, IL.
- Merriam, S. (1998). *Qualitative research and case study applications in education (2nd ed.)*. San Francisco, CA: Jossey-Bass Publishers.
- Miles, M., & Huberman, A. M. (1994). *Qualitative data analysis: An expanded sourcebook (2nd ed.)*. Thousand Oaks, CA: Sage Publications.
- Montoya, I., Bell, D., Richard, A., Goodpastor, W., & Carlson, J. (1998). "Barriers to social services for HIV-infected urban migrators." *AIDS Education and Prevention*, 10(4), 366-379.
- National Center for Educational Statistics 2003.
- New York State Assembly. (2002). A9612 Bill Text. Albany, NY. <http://public.leginfo.state.ny.us/menugetf.cgi>
- New York State Senate. (2002). S7784 Bill Text. Albany, NY. <http://public.leginfo.state.ny.us/menugetf.cgi>
- Olivas, M. (1988). "Administering intentions: Law, theory, and practice of postsecondary residency requirements." *Journal of Higher Education*, 59(3), 263-290.
- Olivas, M. (2005). "Plyler v. Doe, the education of undocumented children, and the polity." In D. Martin & P. Schuck (Eds.), *Immigration stories* (pp. 197-220). New York, NY: Foundation Press.
- Olivas, M. (2009). "Undocumented college students, taxation, and financial aid: A technical note." *The Review of Higher Education*, 32(3), 407-416.
- Padilla, R. (1988). *Residency classification in Texas colleges: The application of complex legislation to the complex circumstances of students*. University of Houston. Houston, TX. EdD.
- Passel, J. (2003). *Further demographic information relating to the DREAM Act*. Washington, DC: Urban Institute.
- Passel, J. (2005). *Unauthorized migrants: Numbers and characteristics*. Washington, DC: Pew Hispanic Center.
- Passel, J., Capps, R., & Fix, M. (2004). *Undocumented immigrants: Facts and figures*. Washington, DC: Urban Institute. <http://www.urban.org/url.cfm?ID=1000587>
- Pérez, W. (2009). *We are Americans: Undocumented students pursuing the American dream*. Sterling, VA: Stylus Publishing.
- Perna, L., & Titus, M. (2005). "The relationship between parental involvement as social capital and college enrollment: An examination of racial/ethnic group differences." *The Journal of Higher Education*, 76(5), 485-518.
- Pizarro, M. (2005). *Chicanas and Chicanos in school: Racial profiling, identity battles, and empowerment*. Austin, TX: University of Texas Press.
- Plyler v. Doe*. (1982). 457 U.S. 202.
- Rincon, A. (2008). *Undocumented immigrants and higher education: Si se puede*. LFB Scholarly Publishing: New York.

Salsbury, J. (2003). "Evading "residence": Undocumented students, higher education, and the states." *American University Law Review*, 53(459), 459-490.

Solorzano, D., Villalpando, O., & Oseguera, L. (2005). "Educational inequities and Latina/o undergraduate students in the United States: A critical race analysis of their educational progress." *Journal of Hispanic Higher Education*, 4(3), 272-294.

Spillane, J., Reiser, B., & Reimer, T. (2002). "Policy implementation and cognition: Reframing and refocusing implementation research." *Review of Educational Research*, 72(3), 387-431.

Stanton-Salazar, R. (2001). *Manufacturing hope and despair: The school and kin support networks of U.S.-Mexican youth*. New York, NY: Teachers College Press.

Suárez-Orozco, C., Pimentel, A., & Martin, M. (2009). "The significance of relationships: Academic engagement and achievement among newcomer immigrant youth." *Teachers College Record*, 111(3), 712-749.

Swail, W., Cabrera, A., & Lee, C. (2004). *Latino youth and the pathway to college*. Washington, DC: PEW Hispanic Center.

Urrutia-Rojas, X., Marshall, K., Trevino, E., Lurie, S., & Minguia-Bayona, G. (2006). "Disparities in access to health care and health status between documented and undocumented Mexican immigrants in North Texas." *Hispanic Health Care International*, 4(1), 5-14.

Valenzuela, A. (1999). *Subtractive schooling: U.S.-Mexican youth and the politics of caring*. Albany, NY: State University of New York Press.

Vásquez, M. (1982). "Confronting barriers to the participation of Mexican American women in higher education." *Hispanic Journal of Behavioral Sciences*, 4(2), 147-165.

Vernez, G., Abrahamse, A., & Quigley, D. (1996). *How immigrants fare in U.S. education*. Washington, DC: RAND Corporation.

Wilson, R. (2001, November 16). "CUNY raises tuition rates for illegal immigrants." *The Chronicle of Higher Education*.

Worth, K. (2002, January 29). "Closing the schoolhouse door." *The Village Voice*, p. 26.

Yin, R. (2003). *Case study research: Design and methods (3rd ed.)*. *Applied social research method series Volume 5*. San Francisco, CA: Sage Publications.

## Appendix A Literature Framing Study

In order to shed light on the multifaceted and complex nature of the undocumented immigrant experience, it is necessary to review several different literatures. First, the literature on postsecondary education for undocumented immigrants is addressed. Next, to further examine the role of fear of status disclosure in potentially blocking access to public benefits, the literature on access to health care on the part of undocumented immigrants and people living with HIV/AIDS is outlined. Moreover, given the sizable percentage of undocumented immigrants that are Latino, the review will be broadened to include the literature on Latinos and educational access. Lastly, the policy implementation scholarship, including the central role of implementers, will be delineated. The following is a brief summary of these literatures and associated elements central to this investigation.

***Undocumented Immigrants and Postsecondary Education.*** The literature informs us that undocumented immigrants face significant barriers in their pursuit of postsecondary education. In particular, they have received an inadequate level of outreach and information related to postsecondary education enrollment (González, 2009; Olivas, 2009; Rincon, 2008). Simultaneously, the discretionary application of complex state residency requirements has negatively impacted undocumented immigrants (González, 2009; Olivas, 1988; Padilla, 1988; Rincon, 2008). In those states that do not offer in-state tuition opportunities, out-of-state tuition is too costly for this population (Mehta & Asma, 2003; Salsbury, 2003). Yet, undocumented immigrants have little or no access to financial aid programs (Olivas, 2009; Rincon, 2008; Salsbury, 2003). Lastly, fear associated with being an "illegal" member of society plagues this population (Biswas, 2005; De Leon, 2005; Pérez, 2009). This population is forced to grapple with the reality that their legal status may someday be discovered and result in their deportation to their country of birth.

### ***Undocumented Immigrants and People Living with HIV/AIDS and Access to Health***

***Services.*** Given the limited literature on higher education access for undocumented immigrants, the literature on health care access of both undocumented immigrants and people living with HIV/AIDS is examined. Both literatures point to similar barriers that these socially stigmatized groups face in their struggle to receive health care services. These hurdles are comparable to those undocumented immigrants find in their struggle to gain access to postsecondary education. Undocumented immigrants and people living with HIV/AIDS — two socially marginalized groups — experience stigma and

fear of status disclosure in their everyday lives. As a result, barriers to health care emerge, which preclude them from receiving these essential services (Berk, Schur, Chavez, & Frankel, 2000; Chin, Kang, Kim, Martinez, & Eckholdt, 2006; Goldman, Smith, & Sood, 2006). For undocumented immigrants health care barriers come in the form of cost and ability to pay for medical services (Chin et al., 2006; Kang, Rapkin, Springer, & Kim, 2003), fear associated with disclosure of immigration status (Bowden et al., 2006; Chin et al., 2006; Loue, Cooper, & Lloyd, 2005), and inadequate access to information (Kang et al., 2003; Urrutia-Rojas et al., 2006). For people living with HIV/AIDS health care barriers are primarily linked to fear associated with disclosure of HIV/AIDS status (Foley, 2005; Kalichman et al., 2007; Kang et al., 2003), and inadequate access to information (Montoya et al., 1998).

***Latinos and Educational Access.*** It is estimated that approximately 80% of undocumented immigrants are Latino (Passel, Capps, & Fix, 2004). Therefore, it is crucial to explore issues related to the postsecondary educational access of Latinos. Scholars trace poor Latino postsecondary educational access to their bleak K-12 completion rates (Fry, 2003; Gándara, 1993; Solorzano, Villalpando, & Oseguera, 2005). Amazingly, only one in two Latinos obtains a high school diploma in the U.S. (Solorzano et al., 2005). To illustrate further, it is estimated that only 22% of Latinos aged 18 to 24 are enrolled in postsecondary education, the lowest among all racial and ethnic groups (National Center for Educational Statistics, 2003).

Latinos face significant barriers in their completion of K-12 education: many are of lower socioeconomic standing (Gándara & Contreras, 2009; González, 2004; Perna & Titus, 2005), more than half are foreign-born or children of foreign-born parents (González, 2004), many attend schools that contain staff that dismiss or fail to address the needs of Latinos (Stanton-Salazar, 2001; Suárez-Orozco, Pimentel, & Martin, 2009; Pizarro, 2005; Valenzuela, 1999).

In terms of higher education access, the following social factors impact Latinos' likelihood to enroll at this level: lower income level (McDonough & Calderone, 2006; Vásquez, 1982), modest parental education (Cabrera & La Nasa, 2002; Vernez, Abrahamse, & Quigley, 1996) and involvement (Gándara, 1993; Perna & Titus, 2005), reduced educational aspirations (Gándara, 1993), and inferior high school preparation (Pizarro, 2005; Swail, Cabrera, & Lee, 2004; Valenzuela, 1999).

***Policy Implementation.*** Policy implementation has been referred to vaguely as "what happens after a bill becomes law" (Anderson, 2003, p. 193). This literature

outlines the role of key actors in the implementation of policies. While some scholars point to the importance of policymakers as central in the implementation process (Elmore, 1979-1980), a significant number of academicians emphasize the role of implementers (Fitz, 1994; Hill & Hupe, 2002; Howlett & Ramesh, 2003). Implementers — those individuals responsible for the day-to-day administration of policies — have the authority to shape policies in such a way that may benefit some groups while disadvantaging others.

The knowledge that actors use to implement policies and the way in which they carry them out — referred to as sensemaking — has been explored (Spillane, Reiser, & Reimer, 2002), but not in the context of implementers' personal beliefs related to immigration status.

## Appendix B CUNY Residency Form



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CUNY RESIDENCY FORM: Part A

Semester: \_\_\_\_\_

- Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_
- Soc. Sec. No. \_\_\_\_\_ Date of Birth \_\_\_\_\_ Phone No. ( ) \_\_\_\_\_
- Are you a U.S. citizen? Yes " No " Are you a permanent resident alien? Yes " No "  
Are you here on a visa? Yes " No " Type: \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- Did you attend a New York high school for two or more years, and graduate from that high school?  
Yes " No " If yes, high school name and location \_\_\_\_\_  
Period of Attendance \_\_\_\_\_ Graduation Date \_\_\_\_\_
- Do you have a GED issued by NYS? Yes " No " Date Issued: \_\_\_\_\_

If you answered "yes" to question 4 or 5 and are a U.S. citizen or permanent resident alien, you do not need to complete any further sections of this form.

If you answered "yes" to question 4 or 5 and do not currently have lawful immigration status but have filed an application to legalize your immigration status or will file such an application as soon as you are eligible to do so, you must complete Part B of this Residency Form (affidavit) before a Notary Public.

If you answered "no" to question 4 or 5 and are a U.S. citizen, permanent resident alien, or have a visa type eligible to qualify for resident tuition, you must complete Part C of this Residency Form.

Please refer to the instructions to complete this form for a comprehensive list of eligible visa types.

### To Be Completed by All Students

I certify that all information provided and all statements made in all sections of this Residency Form are true and correct to the best of my knowledge.

I understand that if I provide false information or withhold relevant information in order to obtain the resident tuition rate, The City University may revoke its determination of in-state residency, and that I will owe non-resident tuition to the University for each semester or session that I have attended under these circumstances. I also understand that I may be subject to disciplinary action.

DATE \_\_\_\_\_ STUDENT SIGNATURE \_\_\_\_\_

*The college will not review any residency determination unless the request for the review is made, and all the required documentation is submitted on or before the last day of finals for the semester for which resident tuition is being sought.*

*If the College finally determines that you are non-resident, you may appeal by notifying the Registrar's Office (or other designated college appeal office) in writing within ten days of the adverse decision. At that time you may submit a statement indicating why you disagree with the College's decision. The Registrar (or other designated official) will submit the City University Residency Form, copies of all documentation provided by you and any statement made by you, along with the College's determination, to the University's Office of the Vice Chancellor for Legal Affairs and General Counsel which will render a decision on your appeal.*

Rev 2/09

### Affidavit of Intent to Legalize Immigration Status

\_\_\_\_\_, being duly sworn, deposes and says that he/she does not currently have lawful immigration status but, has filed an application to legalize his/her immigration status or will file such an application as soon as he/she is eligible to do so.

Sworn to me this \_\_\_\_\_ day of the month of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_, State of New York, County of \_\_\_\_\_.