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## STRUGGLING FOR OPPORTUNITY

### UNDOCUMENTED AB 540 STUDENTS IN THE LATINA/O EDUCATION PIPELINE

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Assembly Bill 540 (AB 540) was passed into law by the California state legislature in October 2001 and was implemented on January 1, 2002. Under AB 540, an undocumented student pays resident (in-state) fees at California's public colleges and universities if the student 1) attended a high school in California for at least three years (schooling does not have to be consecutive); 2) graduated from a California high school or received an equivalent degree (GED); and 3) files an affidavit with the institution stating that she or he will apply for legal permanent residency as soon as she or he is eligible.<sup>1</sup> The legislation affects all public institutions of higher education in the state: the University of California (UC), California State University (CSU), and California Community College (CCC) systems.

Although AB 540 creates broader access to higher education by offering in-state tuition to undocumented students, for many low-income undocumented students, even in-state tuition is a financial burden for them and their families. AB 540 does not allow undocumented students to apply for state or federal financial aid programs, thus most of these students still struggle financially as they pursue a postsecondary degree. Unfortunately, their struggles go unacknowledged by most researchers, state policy makers, and officials of California's public colleges and universities. They know relatively little about the experiences of AB 540 college students.

This report explores the critical issues that undocumented Latina/o AB 540 college students face.<sup>2</sup> In the first part we review the provisions of AB 540 and describe a current legal challenge to the statute, and in the second part we discuss the issues that undocumented Latina/o students face. The report concludes with a set of

recommendations for policy makers and college and university officials. We hope that the information contained in this report will not only contribute to a wider understanding of the experiences of Latina/o undocumented college students, but also inform state and local policy decisions in California regarding undocumented Latina/o students.

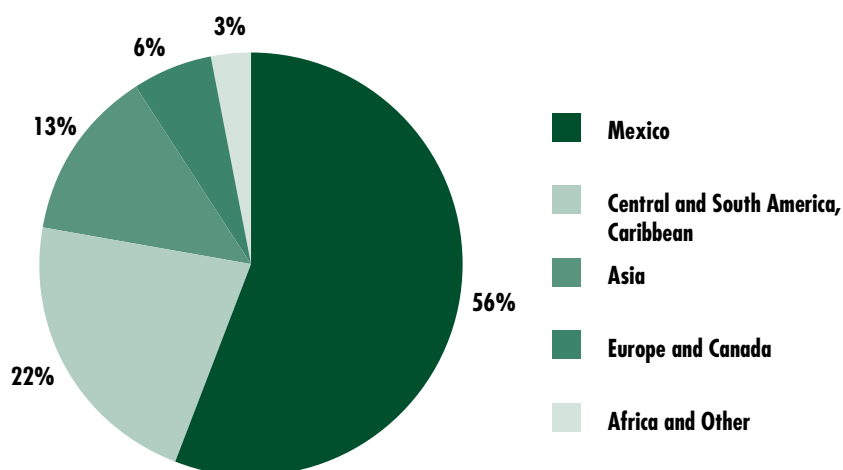
#### UNDOCUMENTED LATINA/O STUDENTS AND AB 540

Although quantification of the number of undocumented Latina/o immigrants residing in the United States remains a challenge, current estimates provide a sense of their significance within the U.S. population. The U.S. Census Bureau (2004) estimates that in 2004 there were 34 million foreign-born residents in the United States. Of these 34 million people, almost 53 percent were Latina/o. In the same year just over 9 million foreign-born residents lived in California, of which 55 percent were Latina/o. The census does not report the legal status of foreign-born immigrants, but in a recent report the Pew Hispanic Center estimates that 11.5 to 12 million undocumented people live in the United States (cited in Passel 2006). Most undocumented immigrants are from Mexico, as Figure 1 shows.

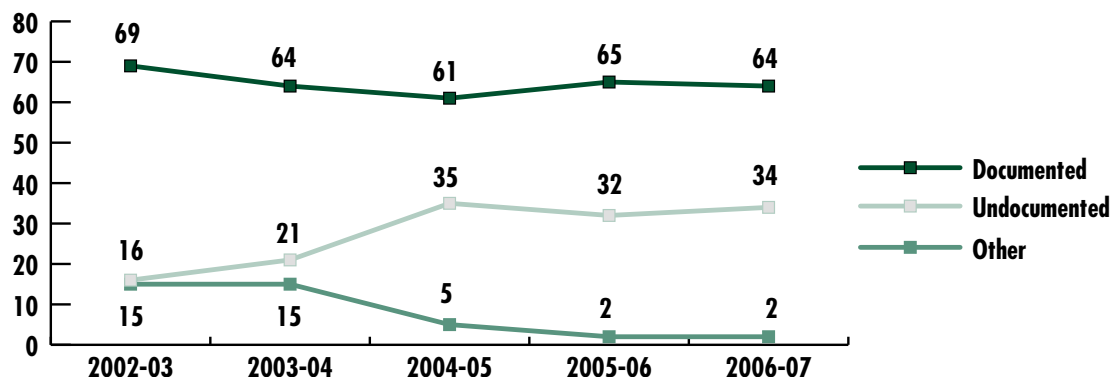
The majority of the estimated 65,000 undocumented students who graduate each year from U.S. high schools reside in California (Olivérez et al. 2006). In 2001 between 5,000 and 8,000 students in California were eligible for resident tuition under AB 540 (Olivérez et al. 2006). The number of AB 540 students enrolling in the UC system has been increasing (UCOP Student Financial Support 2008), a trend that is likely affecting the more affordable CSU and CCC systems as well. Researchers have found that many undocumented students excel academically and have high aspirations to attend college (Olivérez et al. 2006). These findings demonstrate the urgency of expanding access to higher education for undocumented students throughout the nation, but especially in California.

AB 540 students come from a range of racial/ethnic backgrounds and their immigration status differs. AB 540 is commonly perceived, however, as legislation that aids only undocumented students. In fact, most AB 540 students are either U.S. citizens, permanent residents, or visa holders. The University of California Office of the President (UCOP) reports that in 2006–07, at least 70 percent of all AB 540 students

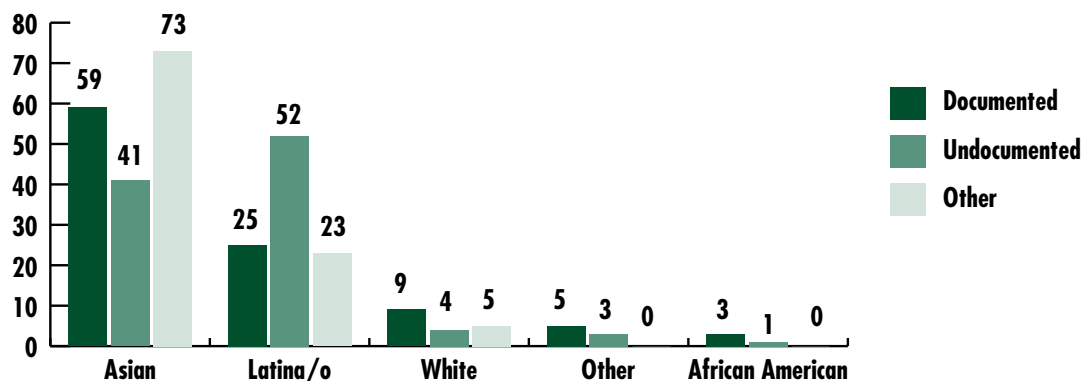
Figure 1. Origins of U.S. Undocumented Immigrants, 2006



Source: Passel 2006.

**Figure 2. Percentage of Undocumented, Documented, and Other AB 540 Undergraduate Students in the UC System, 2002–2007**

Source: UCOP Student Financial Support 2008.

**Figure 3. Percentage of Undocumented, Documented, and Other AB 540 Undergraduate Students in the UC System, by Race/Ethnicity and Immigration Status, 2006–2007**

Source: UCOP Student Financial Support 2008.

were documented (UCOP Student Financial Support 2008).<sup>3</sup> From 2002–03 to 2006–07, documented students made up the majority of AB 540 students across the UC system, as Figure 2 shows.<sup>4</sup>

The negative image of AB 540 students is tied not only to their immigration status but also to their race/ethnicity: another common misperception is that AB 540 is utilized primarily by Latina/o students. Data from UCOP for 2006–07 reveal that, on the contrary, undergraduate students from

all major racial/ethnic groups (with the exception of Native Americans) enroll under AB 540, as Figure 3 illustrates.<sup>5</sup> Overall, the largest percentage of UC undergraduates who enrolled under AB 540 was Asian students. Asian students were also the majority of AB 540 documented students and “other” students—that is, petitioners for immigrant visas. AB 540 helps not just Latina/o students but *all* students in the UC system, and Asian students in particular.

#### LEGAL AND LEGISLATIVE DEBATE

The experiences of undocumented Latina/o AB 540 students cannot be divorced from the federal and state legislation and legal challenges that have affected their access to higher education. The U.S. Supreme Court has shown reluctance to take on the question of whether education is a constitutional right or a benefit that can be regulated by the state. The Supreme Court’s ruling in *Plyler v. Doe* in 1982 stated that undocumented children could not be denied public education

unless the denial “furthered some substantial state interest” (Petronicolos and New 1999, 379).<sup>6</sup> Thus, while *Plyler* allowed undocumented students access to education, the ruling did not establish a right to education.

The 1985 ruling by a California Superior Court in *Leticia A. v. Board of Regents* allowed undocumented students attending the state’s public four-year universities to pay resident tuition on the same terms as U.S. citizens and be eligible for Cal Grants, a state financial aid program.<sup>7</sup> Five years later the *Leticia A.* decision was overturned by the California Court of Appeal in *Regents of the University of California v. Superior Court (Bradford)*. The appellate court affirmed the lower court’s ruling, which held that undocumented students must pay out-of-state tuition at all public higher education institutions in California.<sup>8</sup> Moreover, undocumented students were no longer eligible for state financial aid. The plaintiffs’ motion for a rehearing was denied in 1991.

The *Bradford* order was fully implemented in all public institutions of higher education by spring 1995. For over a decade following the decision, undocumented students in California were required to pay out-of-state tuition, which was approximately three times the amount of in-state fees. The implementation of AB 540 in 2002 again offered some financial relief.<sup>9</sup> Unfortunately, a current legal challenge—*Martinez v. Regents of the University of California*—threatens the California law. This challenge began in 2005, when forty-two U.S. citizen students from nineteen states filed a class-action lawsuit against UC, CSU, and CCC. The plaintiffs could not establish California residency and, as a result, paid nonresident tuition.<sup>10</sup> The plaintiffs claim that AB 540 provides tuition and residency “benefits” to undocumented students and therefore conflicts with federal law, which states

that undocumented immigrants cannot receive benefits that are not also available to U.S. citizens, regardless of residency.<sup>11</sup> Plaintiffs further claim that the defendants engaged in an “illegal tuition scheme” by providing undocumented students with these “benefits” (a claim undermined by UCOP statistics, as shown in Figures 2 and 3). The defense states that AB 540 is in compliance with federal law because legal status is not a criterion for eligibility; rather, eligibility is based on whether the student has attended and graduated from a California high school. The plaintiffs had paid nonresident tuition because they were residents of another state when they attended California public postsecondary institutions. The California Supreme Court accepted the case in December 2008 and will likely hear arguments in 2009.

Since the implementation of AB 540, federal legislation has been proposed that would provide substantial support for undocumented students. The federal DREAM (Development, Relief, and Education for Alien Minors) Act was introduced as bipartisan legislation in late 2005 to provide undocumented students who grow up in the United States with a path to legal residency. Versions of the bill were reintroduced in the House (H.R. 1751) and the Senate (S. 729) in 2009. If passed by the Congress and signed into law by the president, the DREAM Act could have a tremendous impact on the lives of undocumented students. Students who meet certain criteria would be granted six years of “conditional permanent residency” if they graduate from college or serve in the U.S. military.<sup>12</sup>

Even with AB 540, however, the college dreams of many undocumented students are shattered when their access to an institution is limited by state laws that preclude them from applying for financial resources that are available to documented students. The

California Dream Act, SB 160, introduced in the state assembly in March 2009, would allow undocumented AB 540 students in California to apply for institutional aid. Three earlier versions of the legislation were vetoed by Governor Arnold Schwarzenegger.<sup>13</sup>

Although progress toward greater educational access for undocumented students is being made, anti-immigrant bills that seek to deny immigrant rights continue to emerge. For example, the Border Protection, Antiterrorism, and Illegal Immigration Control Act (H.R. 4437), introduced in 2005, was a direct attack on undocumented immigrants; the proposed legislation mandated a felony charge for any undocumented person found to be residing in the United States and barred undocumented residents from ever gaining legal status in the United States.<sup>14</sup> Because federal legislation has the potential to override state law, such legislation is especially troubling.

In California, efforts to provide services for undocumented immigrants have been challenged by voter initiatives. In 1994 voters passed Proposition 187, which banned undocumented immigrants from access to education, health, and social services. Fortunately, the courts issued an injunction to block its implementation and then found Proposition 187 unconstitutional.

It is clear that the debate about whether undocumented students should have the same access to education as U.S. citizens will continue. If the California Supreme Court rules in favor of the plaintiffs in *Martinez*, undocumented AB 540 students will again be required to pay out-of-state tuition. *Martinez* threatens to shut out most undocumented students from higher education in California, because many would not be able to afford out-of-state tuition. Undocumented students are accepted to a public college or university in California based on their merit and despite the tremendous

barriers they have overcome to meet the requirements for admission. Legal challenges like *Martinez* undermine the efforts and aspirations of undocumented students, and their families as well, to attain a college degree.

### CRITICAL ISSUES FOR UNDOCUMENTED LATINA/O COLLEGE STUDENTS

This section assesses critical issues for undocumented Latina/o AB 540 students; it is based on a report released at the 2006 Latina/o Education Summit (Perez Huber et al. 2006) and empirical data from a study conducted in 2007 with undocumented Latina/o students enrolled in California postsecondary institutions.<sup>15</sup> The quotes below are drawn from students' responses to interview questions. (For a full description of the study and its findings, see Perez Huber and Malagon 2007.)

#### FINANCIAL CONCERNS: LIMITING COLLEGE OPPORTUNITY

Each student interviewed stated that their most troubling concerns were related to the financial aid and legal employment they needed to fund their schooling. They also expressed concern about how their undocumented status would affect their career opportunities after college.

Some students said that they were unaware of AB 540 when they were considering college. In the following excerpt, Laura, a third-year Latina student at a community college, described how she felt when she decided that she could not afford a four-year university.

Senior year came and ... [I thought,] I can't go to any of the UCs because I won't apply for financial aid since I don't have proper requirements for that ... so I was pretty bummed. I ... felt like my world collapsed. So what's the point? I came all this way and I was, like, I don't want to graduate from high school

anymore because in high school you feel a little sheltered and once you get out you're, like, what's gonna happen? I was a bit scared and didn't know what to do.... None of my sisters went to community colleges, and I didn't know what to expect.... So then when it came to apply [to college] ... I didn't even bother because, why am I going to apply if I can't even go? But then I applied to one of the Cal States to see if I would get in, and I got into Cal State LA. I wasn't aware of AB 540 back then—I decided not to go.

Laura's plans for higher education were influenced by financial uncertainty and concerns about legal restrictions that might have prevented her from attending college. This raises an important question: how many qualified students with similar experiences do not apply to or attend a four-year institution because they lack information about AB 540?

Ineligibility for federal and state financial aid programs creates yet another barrier for undocumented Latina/o students who are pursuing higher education. Researchers have found that a lack of access to financial aid severely limits college opportunities for these students (Olivas 2004; Rincon 2008). Although undocumented Latina/o students in California are eligible to pay resident tuition under AB 540, their families must be able to afford the tuition and other school-related expenses, such as those for textbooks and housing. The high cost of out-of-state tuition does not stop some undocumented students from attempting to achieve their educational and career goals. Most students in this study paid for their education with small scholarships that did not have citizenship requirements and wages that were usually very low. Three

of the students entered college without prior knowledge of AB 540 and began their college careers paying the higher fees. Most of the students in this study reported that their parents were unable or could make only a minimal contribution to offset the cost of their education.

Although knowledge about AB 540 increases opportunities for undocumented students, the cost of college prevents many from attending. For example, one student described how she was able to fund her first year at a top-tier UC campus with a number of small scholarships. She said she intended to pay for the first quarter of her second year with money saved from working, but she was not sure if she could afford the following terms. Students' inability to obtain legal status leaves them with no choice but to obtain employment that does not require documentation, which often limits them to jobs in the service sector, where they are not compensated for their education or their skills. The necessity of seeking out and maintaining employment where legal documentation is not required adds another burden.

The lack of access to federal and state financial aid affects undocumented college students in other ways. For example, Luz enrolled in extra classes so that she could graduate in four years because she could not afford an additional year. She struggled to balance thirty-two hours of work per week and twenty units of coursework per quarter. She also spoke of her inability to access the free tutoring offered to low-income students because eligibility is verified through financial aid documentation. Even though undocumented students are eligible to receive some support services, they cannot apply for campus jobs or paid internships that are funded with state monies.

Other students described the burden that financial obstacles placed on



their families. Luz funded most of her educational costs through the financial support of her parents' small business. She realized the limitations of her parents' ability to fully fund their children's educational expenses when Luz's younger brother, also undocumented, was admitted to a four-year university during his senior year in high school. She became very upset as she related her younger brother's experience.

My other brother ... His senior year he actually did get accepted to [a UC campus] and he was gonna come ... but then ... his admission was withdrawn because he didn't ... do ... well his senior year. But part of the reason he didn't do that well was because he was really stressing out over what he was gonna do ... because my parents were already paying for my tuition, and even though my parents, they were gonna be able to pay for his tuition, he didn't want to put that burden on my parents and he was just stressing out, so even though he was gonna get scholarships, that was one of the factors that affected ... [cries].

Luz explained that she suspects her younger brother purposely underperformed in his classes during his senior year so that their parents would not have to pay for his schooling. Abrego (2006) found that undocumented Latina/o students can become discouraged by the barriers they know they will encounter in college. As a result, they may disengage from education years before they graduate from high school. This finding suggests that, if provided adequate opportunities, many more undocumented students would continue to higher education.

Finding adequate financial support was the greatest obstacle to graduation among the students interviewed. Most of the participants mentioned that the lack of knowledge about AB 540

among faculty, staff, and administrators led to an institutional inability to provide AB 540 students with any type of support. Nevertheless, the interviewees had a strong motivation to succeed. Most had aspirations to attend graduate or professional programs. Similarly, De Leon (2005) found that the ability of Latina/o undocumented students to maintain their resiliency and a sense of hope was a critical factor in their success.

It is not enough for institutions to offer resident tuition to undocumented students. Although AB 540 does increase access for undocumented students, it is only a first step toward increasing the number of these students who go to college and receive an undergraduate degree. Financial barriers prevent all but a very few of the many deserving undocumented students in California from attending college.

#### **SOCIAL SUPPORT: RECEIVING GUIDANCE, SHARING RESOURCES**

According to the literature on undocumented Latina/o college students and the responses of the students who participated in the 2006 study, social support is critical for success (De Leon 2005; Gonzalez 2008; Perez Huber and Malagon 2007; Rangel 2001). The sources of support that students depend on include student organizations, peers, and family members. These sources offer guidance and enable students to share resources that are specific to their circumstances. Latina/o undocumented students need information and guidance not only about preparing for college and life as a college student—issues that are of concern to Latina/o students generally—but also about how their legal status will present specific barriers to earning a college degree and how they can navigate past these barriers. Similar to findings from the 2006 Latina/o Education Summit report on Latina/o college students

and the role of family (Perez Huber et al. 2006), the students in the study consistently mentioned their families as a significant source of support and encouragement throughout their college experience.

Carlos, an undocumented Latino student, described how his mother was a critical source of emotional support during his first year at a UC campus:

She's really proud of me and my accomplishments.... She really supports me financially ... and ... also emotionally. I felt like she was the only person that I could really talk to about ... how I was feeling and how I felt lonely. I guess she was the only person that I could really trust ... [to] tell ... about my experiences so far.

Carlos's statement suggests that he found it difficult to share his experiences with others at the university. He also noted that undocumented students lack support and that they should have a space on campus where they will feel comfortable and empowered.

During his first year at the university, Carlos met another first-year undocumented student, Marta. Carlos and Marta joined efforts to form the first student organization on campus to support undocumented students. The group, which is actively involved on campus and in the community, advocates for immigrant rights generally and educational rights for undocumented students specifically. Carlos commented,

Before classes started ... I got in touch with faculty and ... I asked them if they knew of any other AB 540 students and they told me that they didn't. So ever since then, I guess that was one of my goals—to find other AB 540 students and create some kind of support group, because I was positive that I wasn't the only

one that was an AB 540 student, although at times, it seemed like that way.... I wanted to form some kind of support group because of the lack of attention I was getting from the university, lack of resources too. I felt that it was really important for AB 540 students to have some kind of support.

Carlos described how the organization provides undocumented students with important social support and opportunities to share resources. It is important to acknowledge that this student organization was formed out of Carlos and Marta's concern for the lack of support they received from the university.

Most of the students in the study did not have a formal on-campus social support network that was specifically for undocumented students. They were able, however, to turn to other student organizations for support. For example, Luz, a third-year UC student, described how she found social support as a member of Movimiento Estudiantil Chicana/o de Aztlán (MEChA).

We [undocumented members of MEChA] try to help each other out. We have that in common, I guess ... so whenever I know of something, or when they know of a resource, or if they have a question about something with school ... we try to help each other out with resources.

Although the MEChA organization is not directly concerned with providing support to undocumented students, it is an important source of social interaction for Latina/o students, and it served as a space where Luz and her peers could comfortably share information.

Most of the students in the study, however, were not able to be actively involved in student organizations on campus because they had part- or full-time jobs while they were in school.

Outside employment was students' most common strategy for paying their tuition. For this reason, some students maintained more informal types of support with other undocumented students on campus. Alma, a third-year transfer student at a UC campus, described how it was important for her to keep in touch with her undocumented friends. Alma was a full-time student who devoted her free time as a volunteer tutor, so the time she had to spend with her friends was limited, yet important.

Here at [the UC campus] I know many [undocumented] students and I try to be in contact with them.... I know that some are in worse situations than I am because some of them already have a deportation order.... Their families really cannot afford tuition so they struggle [over] every quarter to make ends meet, to pay tuition, to pay room and board and all that. In a sense I'm lucky because I worked and I saved money ... so I don't have to worry about that right now.... I know it's really hard for a lot of students [whose] parents are just *struggling*.... So, in a sense, I know there are other students that are in worse situations than I am. There's really nothing that I can do but to lend my support and my friendship.... Just stay in touch with them, that's what I do.

Alma described the many obstacles and the emotional stress that undocumented students endure and mentioned that staying in touch is a strategy she uses to ease stress and find comfort.

Each of the students interviewed identified a specific person or group of people that provided them with social support as they met the demands of attending college. The students also said that they needed to feel a sense

of trust with the person or group from whom they sought support. While a sense of trust may be important for all students seeking social support, undocumented students may feel especially vulnerable in sharing their experiences because of the potential for repercussions if their undocumented status is revealed. Social support networks can serve as a "safety zone," where students can share information, resources, and advice without concern of disclosure (SIN Collective 2007).

#### CAMPUS CLIMATE:

##### INSTITUTIONAL INVISIBILITY

As noted earlier, the campus experiences of many Latina/o college students are affected by a negative campus climate. A LatCrit framework—which focuses on the intersection of race, class, and gender while also acknowledging the unique forms of subordination within the Latina/o community based on immigration status, language, phenotype, and ethnicity (see Solorzano and Delgado Bernal 2001)—is a useful tool for exploring how racism particularly relates to immigration status and how it affected each of the students in this study.<sup>16</sup>

Most of the students who were interviewed did not experience overt forms of racism such as racial epithets. Rather, they expressed emotional responses to a form of racism called "racist nativism." Racist nativism is rooted within a dominant discourse that promotes an ideology that dehumanizes and marginalizes Latina/o immigrants. It is "the assigning of values to real or imagined differences in order to justify the superiority of the native—who is perceived to be white, over that of the non-native, who is perceived to be a Person or an Immigrant of Color—and thereby defend the right of whites, or the natives, to dominance" (Perez Huber et al. 2008, 43; see also Acuña 2000; De Genova 2005; Johnson 1997; Sanchez 1997; and Velez et al. 2008).

Racist nativism is experienced by other groups of immigrants in the United States, but the dominant ideological association of Latina/o immigrants with rising crime rates, the health care crisis, lower educational standards, and other social ills directs hostility toward this group in particular. (It is also important to acknowledge that this form of racism can also be experienced by U.S.-born Latinas/os who are perceived to be immigrants; see Perez Huber et al. 2008.) Racist beliefs about who “belongs” in the United States fuel the negative perceptions of undocumented Latina/o immigrants. These beliefs influence the decisions that determine who will have access to federal, state, and local resources (as illustrated by *Martinez*, discussed earlier in this report). LatCrit offers an appropriate lens with which to examine the different ways that racism impacts the lives of undocumented AB 540 students. Employing a LatCrit framework additionally affords the opportunity to see, from an understanding of the daily lived experiences of undocumented AB 540 students, how racist nativism emerges, presenting a direct challenge to the discourse that invalidates and/or ignores how this form of racism influences policy and practice.

Study participants reported that these beliefs became apparent when their needs were not met, support was not provided, and information was not allocated by their colleges and universities. They described or alluded to feelings of fear, criminality, and invisibility. They felt like “others”—like they did not belong and could not reveal their true identities. Many students became overwhelmed with emotion as they talked about the feelings they experienced as a result of their legal status in the United States. Many times they expressed uncertainty about their futures: Would they be able to afford their college tuition next quarter or next year? What they would

do after graduation? Where would they find employment?

The failure of institutions to either acknowledge the presence of undocumented students on campus or support their pursuit of a college degree confirms students’ feelings of marginalization. It also perpetuates racist nativism. The SIN Collective (2007) calls this inaction “institutional invisibility.” Sonya, a second-year undocumented UC student described how she felt excluded during a campus event that provided information on programs and services for Students of Color.

We had an event ... called Scholars Day.... Basically all the minority groups ... come, and they ... tell you what ... the school can offer the minority students.... Well, that really doesn’t include me because ... a lot of it was about financial aid and how you can get more out of your financial aid and ... all this other stuff.... There really wasn’t a connection at all. I really didn’t feel like I was a part of that.... Like, a lot of the groups, you don’t fit in. You don’t feel like you have a connection with, like, even regular Latino people. It’s, like, it’s just not the same.

Sonya felt marginalized because campus groups did not provide information specific to undocumented students. Her description of some students as “regular” Latinos implies that she did not consider herself a “regular” Latina student. Sonya perceived herself as an “outsider” or “foreigner” within the institution, similar to the way in which the dominant U.S. society perceives Latina/o immigrants. This event, as a representation of what the institution could offer its students, is symbolic of the neglect that Sonya and other students in this study experienced at their respective institutions.

The students in the study experienced racist nativism years before they entered college. Feelings of being an “other” within U.S. society often began in childhood. Noting that her life would have been different had she lived in Mexico, where she was born, Alma spoke about the emotional pain that she experienced growing up in the United States.

Where we live, in ... a predominately white [town], ... there were not that many Latinos there, so people would ask, How did you get here? How did you come? And we had to make up stories—you know, lie—and in a sense, we [Alma and her siblings] were kind of forced to grow up fast.... Our childhood, in a way ... it wasn’t innocent ... and there was always this, like, fear ... of what was gonna happen. Who am I? What am I doing here? I know that I wouldn’t have to live like a criminal, like I feel sometimes, how I live, like, hiding [pause] not being able to do a lot of things ... [cries].

Alma felt like a “criminal” because she was not able to participate in many of the daily activities that U.S. citizens take for granted.

I can’t travel ... I can’t drive, I can’t vote, I can’t be involved in many social activities because of it [her undocumented status]. I can’t apply for scholarships, I can’t apply for financial aid, I can’t apply for loans, I can’t buy a home, I can’t do anything.... I’m just, like, like I’m non-existent in a way, you know what I mean? As my senior year approaches, I’m, like, what am I gonna do?

Alma’s profound frustration was a reaction to racist nativist perceptions of undocumented Latina/o immigrants as “criminals” as well as a consequence



of the very real limitations that her undocumented status placed on her access to opportunities and resources then and in the future.

## CONCLUSION

Beyond complying with the provisions of AB 540, California's institutions of higher learning must acknowledge the broader intent of the statute by meeting the needs of undocumented students once they begin their college careers. Undocumented AB 540 students are continually marginalized, and they experience more barriers than the general Latina/o student population does. The failure of California colleges and universities to acknowledge these barriers results in their inability to provide services that will support Latina/o undocumented students. This lack of support is antithetical to the state's efforts to create greater access to higher education for undocumented students through AB 540. The failure to support undocumented students also contributes to the larger injustices of society: Latina/o immigrants are purposefully excluded from life opportunities, they are routinely oppressed, and their social mobility is inhibited.

Institutions of higher learning can no longer remain complicit in the marginalization of this population of students. As student demographics continue to change in California, institutions will need to meet the needs of the growing undocumented student population.

## RECOMMENDATIONS

The passage of AB 540 not only increased access for undocumented students in terms of affordability but also symbolically asserted that these students, regardless of their immigration status, have the right to access California public institutions of higher education. Institutions must ensure greater access by providing more support for this population of students.

This section offers several recommendations for each of the critical issues explored in this report. By providing greater opportunities for financial aid, increasing social support services, and improving the campus climate, colleges and universities can encourage undocumented students to pursue higher education, facilitate their transition to college, and improve their persistence.

### 1. INCREASING OPPORTUNITIES FOR AND INFORMATION ABOUT FINANCIAL AID

Although undocumented students cannot directly receive federal and state monies, they can benefit from services such as academic enrichment programs, university loans, and free housing that are offered by colleges and universities in California. Although institutions may not be able to allocate funds directly to target this population, they can make undocumented students aware of their eligibility to apply for these services. Services that use financial aid information as a criterion for eligibility for certain resources should be sensitive to the situations that undocumented students encounter. For example, some on-campus tutoring services use FAFSA information to determine eligibility.<sup>17</sup> Undocumented students should be able to provide an alternative financial record to demonstrate need.

Financial aid offices should create a database of financial resources available to undocumented students, including scholarships and off-campus private internships that offer stipends. Financial aid and student accounting offices should also inform students and scholarship donors about check distribution processes. Checks made out to both the university and the student present a challenge for some distribution systems because the university sometimes needs to withhold federal taxes for non-U.S. residents, which requires students to have a

Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN). To avoid delay, checks should be written only in the student's name. This must be done early to ensure that students are able to pay their expenses in a timely manner.

Undocumented students should also receive information about flexible payment plans and university loans for which they may be eligible. This information should be made available early in students' college careers. Colleges and universities should also provide financial aid orientation sessions for undocumented students. Financial aid is a major factor when undocumented students decide whether to enroll in college and whether to persist. Institutions should acknowledge this potential barrier and increase financial aid information and opportunities as part of their efforts to support undocumented Latina/o students.

### 2. CREATING TASK FORCES TO IMPROVE STUDENT SERVICES

Universities and colleges can ameliorate the problems that undocumented students face by establishing task forces focused on the retention of undocumented AB 540 students and the centralization of support services for them. The task force should consist of representatives from student affairs (such as registrar and financial aid officers) and representatives from academic units (such as academic counselors and program directors). It would be responsible for assessing the services that the institution provides for undocumented AB540 students and creating the changes necessary to improve support for this population. The task force would also be responsible for creating memos and workshops for disseminating information about AB 540. At least one staff member from student affairs and each academic department would receive training on the provisions of AB 540 and become

well versed in the limitations that undocumented students experience in regard to the institutional services that are offered to them. Colleges and universities should educate faculty and staff through memos and training sessions that focus on the issues that these students face (immigration policies, for example). Memos and training sessions should emphasize the confidentiality of student information.

In addition, colleges and universities should create centralized support centers where undocumented students can obtain all the information they need on how to manage the situations that they may face. Support centers should distribute information packets that describe the services offered at the institution. Recruitment, retention, and academic enrichment programs should include components that offer information that can help incoming and existing students make a smooth transition to college.

### 3. IMPROVING THE CAMPUS CLIMATE

Undocumented Latina/o students are affected by the racist nativist climate they encounter on campus, a climate that reflects attitudes found within the larger U.S. society. This negative experience is exacerbated when students discover that they must navigate through college without any acknowledgment or understanding of the barriers they face. Colleges and universities should strive to assure a more welcoming and safe environment by improving the campus climate, and

they should emphasize the importance of a positive climate in their mission statements. On a macro level, colleges and universities should voice their support for legislation that supports undocumented students, and they should denounce anti-immigrant measures. For example, the Regents of the University of California, the California State University Board of Trustees, and the California Community College Board of Governors should support state and federal legislation that would create greater access to postsecondary education, such as California Senate Bill 160 (SB 160)—the California Dream Act—and the federal DREAM Acts. Institutions of higher learning cannot continue to take a neutral stance in the effort to provide equitable access for students.

Creating opportunities for financial aid and increasing student support will also contribute to an improved campus climate, as the campus as a whole becomes more aware and more responsive to the needs of its undocumented student population.

### NOTES

An earlier version of the second part of this report, "Critical Issues for Undocumented Latina/o College Students," appeared in Lindsay Perez Huber and Maria C. Malagon, "Silenced Struggles: The Experiences of Latina and Latino Undocumented College Students in California," *Nevada Law Journal* 7, no. 3 (2007): 841–61.

1. Under AB 540 undocumented students are able to pay resident tuition; however, not all AB

540 students are undocumented. Any student who qualifies under the requirements of the law can be granted exemption from nonresident tuition, including students who graduate from a California high school, move out of state, and then wish to return to attend a California public college or university.

2. This report was written in conjunction with the CSRC fourth annual Latina/o Education Summit, a yearly conference that explores critical issues affecting the success of Latina/o students at each segment of the education pipeline, from kindergarten through graduate and professional programs. The first education summit report (2006) examined the transition factors that are necessary to move more Latina/o students through the educational pipeline and into higher education (Perez Huber et al. 2006). These factors included family, mentorship, campus climate, and financial aid (Gándara 1982; Gloria and Rodriguez 2000; Hurtado et al. 1998; Solorzano, Allen, and Carroll 2002; Tierney and Auerbach 2005). The second report (2007) looked at the importance of the transfer process from community college to a four-year institution; the third (2008) explored the roles of the school superintendent and the board of education. All reports are available online at [www.chicano.ucla.edu](http://www.chicano.ucla.edu).

3. According to this report, UCOP defines "documented" students as those who appear to be U.S. citizens, permanent residents, or holders of an immigrant visa.

4. UCOP reports the status of AB 540 students in the Corporate Student System (CSS) database, which places AB 540 students into the following categories: 1) "documented": students who appear to be U.S. citizens, permanent residents, or holders of an immigrant

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visa; 2) "indeterminate": students who have no identifiable status but have provided information that suggests that they may be documented, such as a nonblank social security number; 3) "potentially undocumented": students who have no identifiable documentation status in CSS; and 4) "other": students who appear to be approved for immigrant visas. For the purposes of this report, students categorized as "indeterminate" were included with the "undocumented" group to provide comparability with how AB 540 students have been classified across years.

5. The category "other" includes students who provided "other" as their racial category or whose race/ethnicity is unknown.

6. 457 U.S. 202 (1982).

7. *Leticia A. v. Board of Regents*, No. 588982-4 (Superior Court, County of Alameda, May 7, 1985). California Education Code § 68062(h).

8. *Regents of the University of California v. Superior Court (Bradford)* (1990) 225 Cal. App.3d 972, reh. den. (1991).

9. Cal. Educ. Code § 68130.5

10. The defendants in this case include the UC regents, trustees of the CSU system, CCC board of governors, and the UC, CSU, and CCC chancellors and presidents. Plaintiffs filed the original complaint on December 14, 2005, in Yolo County, California.

11. For more information, see Bernstein 2008.

12. The student must: 1) have proof of arrival in the United States before age 16, and be under age 35; 2) have graduated from high school or obtained a GED; 3) have good moral character (defined in immigration law as having no criminal record or deportation order); and 4) have at least five years of continuous presence in the United States prior to the passage of the bill. The federal DREAM Act has been introduced several times since 2003.

13. Governor Arnold Schwarzenegger vetoed SB 160 in 2006, SB 1 in 2007, and SB 1301 in 2008.

14. H.R. 4437 was passed in the U.S. House of Representatives but died shortly after the mass mobilization that took place throughout the nation against the bill. However, new versions of the bill continue to be introduced, such as the Strive Act (Security Through Regularized

Immigration and a Vibrant Economy). For more information on the Strive Act, see the website of Arizona Congressman Jeff Flake (<http://flake.house.gov/UploadedFiles/STRIVE%20Summary.pdf>), who introduced the bill in 2007.

15. All names used in this study are pseudonymous created to protect the anonymity of participants.

16. "LatCrit" stands for Latina/o critical race theory, a branch of critical race theory (CRT).

17. The Free Application for Federal Student Aid (FAFSA) is the application used to determine a student's eligibility for federally subsidized loans, grants, and work-study funds. It is also used by state and local governments and private organizations.

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