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## Uncovering Whiteness as Discourse: A Critical Discourse Analysis of the In-State Resident Tuition Debate for Undocumented Students in Texas

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**Abstract:** Undocumented college students in the United States encounter a number of structural barriers to postsecondary education success, including disparate in-state resident tuition (ISRT) policies across the country. Texas, the first state to establish ISRT benefits for undocumented college students, has been a site of tension respective to this issue over the last 20 years. In fact, there have been eight legislative attempts to repeal the state's affirmative ISRT policy. In order to investigate this ongoing ISRT debate in Texas, we used critical discourse analysis methods to analyze the implicit and explicit messages communicated in the policy and surrounding policy discourse. Our conceptual framework, grounded in three constructs of critical whiteness studies including ontological

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expansiveness, color evasiveness, and individualization, allowed us to uncover whiteness as a pernicious undergirding force within this policy discourse.

**Keywords:** undocumented students; in-state resident tuition; state policy; whiteness; Texas

### **Descubriendo la blancura como discurso: Un análisis crítico del discurso del debate sobre el costo de la escuela para estudiantes indocumentados en Texas**

**Resumen:** Los estudiantes universitarios indocumentados en los Estados Unidos se encuentran con una serie de barreras estructurales para el éxito de la educación postsecundaria, incluyendo políticas para costos dispares para la escuela (ISRT) en todo el país. Texas, el primer estado en establecer beneficios de ISRT para estudiantes universitarios indocumentados, ha sido un sitio de tensión con respecto a este tema durante los últimos 20 años. De hecho, ha habido ocho intentos legislativos para derogar la política afirmativa de ISRT del estado. Con el fin de investigar este debate ISRT en curso en Texas, utilizamos métodos de análisis crítico del discurso para analizar los mensajes implícitos y explícitos comunicados en la política y el discurso político circundante. Nuestro marco conceptual, basado en tres constructos de estudios críticos de la blancura que incluyen la expansividad ontológica, la evasión del color y la individualización, nos permitió descubrir la blancura como una fuerza subyacente dentro de este discurso político.

**Keywords:** estudiantes indocumentados; matrícula; política estatal; blancura; Texas

### **Desvendando a brancura como discurso: Uma análise crítica do discurso do debate sobre o custo da escola para estudantes indocumentados no Texas**

**Resumo:** Estudantes universitários indocumentados nos Estados Unidos encontram uma série de barreiras estruturais para o sucesso da educação pós-secundária, incluindo políticas para custos díspares para a escola (ISRT) em todo o país.. O Texas, o primeiro estado a estabelecer benefícios ISRT para estudantes universitários indocumentados, tem sido um local de tensão em relação a essa questão nos últimos 20 anos. Na verdade, houve oito tentativas legislativas de revogar a política afirmativa de ISRT do estado. A fim de investigar este debate ISRT em andamento no Texas, usamos métodos de análise crítica do discurso para analisar as mensagens implícitas e explícitas comunicadas na política e no discurso político circundante. Nossa estrutura conceitual, baseada em três construtos de estudos críticos de brancura, incluindo expansividade ontológica, evasividade de cor e individualização, nos permitiu descobrir a brancura como uma força subjacente dentro desse discurso político.

**Palavras-chave:** alunos sem documentos; costo de la escuela; política estadual; brancura; Texas

## Introduction

Undocumented students in the United States, including those protected by Deferred Action for Childhood Arrivals (DACA), continue to face unique structural barriers to higher education (Bjorklund, 2018). The barriers exist at the federal and state policy levels (Frum, 2007; Gonzales, 2016) as well as at individual institutional levels (Abrego, 2006; Cebulko & Silver, 2016; Diaz-Strong et al., 2011; Suárez-Orozco et al., 2011; Teranishi et al., 2015). Perhaps the most immediate barrier is related to financial access. Undocumented immigrants are not eligible for federal financial aid opportunities (Oseguera et al., 2010). And, depending upon the state in which an undocumented immigrant resides, they may also not be eligible for in-state resident tuition (ISRT; National Immigration Law Center, 2019a). Currently, only 20 states and the District of Columbia have tuition equity laws that ensure undocumented students are afforded ISRT (National Immigration Law Center, 2019a).

The policy parameters that govern the undocumented college student experience are complex and evolving. In fact, there are new ISRT-related policies introduced each legislative session across the country that intend to extend or deny ISRT to undocumented students (Ali, 2017). This is especially evident in the state of Texas. In 2001, Texas was the first state to establish ISRT policies for eligible undocumented immigrants by legislatively changing the state's residency policy (Abrego, 2006; Flores, 2010a). This policy was passed as a bipartisan piece of legislation and signed into law by Governor Rick Perry, a governor who later ran for the Republican nomination for President in 2012. However, alongside an evolving political landscape, ISRT has been continuously up for debate. Since the policy was established in Texas, there have been eight attempts to reverse it and remove undocumented students' access to ISRT and state need-based aid.

State legislation granting undocumented students ISRT is "perhaps the most relevant immigrant college access-related policy of the last three decades" (Oseguera et al., 2010, p. 38). Moreover, there is evidence that access to ISRT has positive impacts on undocumented students' enrollment in higher education (Flores, 2010; Kaushal, 2008). With Texas being home to the second-largest state population of undocumented immigrants (Pew Research Center, 2019), repealing the existing ISRT policy would have a severe and negative impact on undocumented college students' postsecondary pursuits in the state.

Considering our current political climate, in which there is a disturbing and heightened level of anti-immigrant sentiment and continuing Executive Branch attempts to end DACA, scholars must pay attention to the discourse that exists around ISRT policies as they form and evolve. This study demonstrates how power is present in both formal policy documents related to ISRT as well as the overarching public conversation. Moreover, and more importantly, this power has consequential implications for those affected by policy creation (Woodside-Jiron, 2011). Policy documents serve as important sites to analyze underlying ideologies that inform political tensions. Additionally, policy makers' public comments related to these policies reveal explicit and implicit ideological beliefs that guide their policy making decisions. Therefore, critical scholars must continue to interrogate policy discourse in order to reveal the ways in which ideologies of power are realized within social practices such as access to higher education.

## Purpose and Research Questions

The purpose of this study was to qualitatively critically analyze the discourse of the ISRT debate in Texas by answering the following research questions:

- 1) What explicit and implicit messages are communicated in attempts to repeal ISRT for undocumented students in Texas?
- 2) What explicit and implicit messages are communicated in attempts to establish or sustain ISRT for undocumented students in Texas?

As we uncover the implicit and explicit messages and ideologies embedded within the Texas ISRT debate, we believe it is important to explicitly name and address whiteness and white dominance within the discourse. In order to do this, we rely on constructs of Critical Whiteness Studies (CWS) to serve as a framework through which we analyze the discourse.

## Literature Review

Undocumented students live in the United States without citizenship, valid visas, or valid work permits (Passel & Cohn, 2010). Many of these college students came to the United States as young children with their parents (Abrego, 2011; Gonzales, 2016). Scholars have observed that undocumented immigrants live in a liminal space, not fully belonging to the social group from which they originated nor to the group of which they are currently a part (Suárez-Orozco et al., 2011). They experience systematic inclusion and exclusion in the United States, including in higher education (Abrego, 2008; Bjorklund, 2018; Suárez-Orozco et al., 2011). The following literature provides the background of the policy parameters, including ISRT policies, that affect undocumented students.

### Federal and State Policy Landscape

There are a number of federal and state policies that govern undocumented students' access to and experience in higher education. In this section, we briefly review the Supreme Court case that is especially pertinent to this student population as well as a number of federal policies that affect undocumented students' access to postsecondary education. Then, we review the literature on the ISRT policy landscape and conclude with a focus on Texas's ISRT policy.

#### *Plyler v. Doe of 1982*

For decades, Texas has been the site of critical policy developments related to undocumented immigrants and education. Long before ISRT policies were developed to facilitate the enrollment of undocumented college students in Texas and across the country, Texas was the site of litigation concerning the enrollment of undocumented students in public K-12 schools. The litigation went to the Supreme Court, captioned as *Plyler v. Doe* (1982). After the Texas legislature passed a resolution in 1975 allowing school districts to deny free public K-12 education to undocumented immigrants, the Tyler Independent School District (ISD) created a new policy for their students who were undocumented (American Immigration Council, 2016). The Tyler ISD policy mandated that, in order for undocumented students to enroll in local public schools, their families were required to pay a special tuition fee (American Immigration Council, 2016). Subsequently, a group of students, originally from Mexico, sued Tyler ISD. After the students won the case, at both the district court and federal appeals court levels, Tyler ISD appealed to the Supreme Court.

In a 5-4 decision, the Supreme Court upheld the federal appeals court's ruling, asserting that the school district's policy violated the Fourteenth Amendment of the U.S. Constitution. Justice Brennan delivered the opinion of the Court. He explained, that denying students access to public

education, because of their immigration status, was a violation of the Equal Protection Clause (American Immigration Council, 2016). He went on to write,

By 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. 224)

This case serves as the legal backdrop of the undocumented student experience in the United States public school systems. As a consequence of the decision, undocumented students are granted access to free public K-12 education – a right granted to all children in the United States. Yet, after graduating high school, undocumented students find no *Plyler*-like protections for their postsecondary pursuits.

### ***Higher Education Act of 1965, IIRIRA, and PRWOA***

The Higher Education Act of 1965 (HEA) authorized new resources for public colleges and universities and provided financial assistance for college students (U.S. Department of Education, n.d.). Throughout the latter half of the 20<sup>th</sup> century, the HEA was reauthorized and was most recently reauthorized in 2008 (U.S. Department of Education, n.d.). The part of the HEA most relevant to this study is Title IV which limits federal financial aid to students who are U.S. citizens or permanent residents (Higher Education Act of 1965). This provision effectively denied undocumented immigrants access to federal financial aid (Drachman, 2008; U.S. Department of Education, n.d.).

Whereas the Higher Education Act of 1965 implicitly denied undocumented immigrants access to federal financial aid, two subsequent pieces of legislation, passed in 1996, explicitly denied postsecondary benefits to undocumented immigrants: PRWOA and IIRIRA. In a response to the growing population of undocumented immigrants (Gonzales, 2016), PRWOA was passed in an effort to reform the welfare system and asserted that undocumented immigrants were not eligible for any federal public benefits including welfare, public housing, food assistance, or postsecondary education benefits (Frum, 2007). As Bjorklund (2018) explained, the PRWOA “explicitly forbids undocumented students from receiving federal loans or funding for higher education” (p. 634). That same year, IIRIRA was passed. Section 505 of IIRIRA asserted that undocumented immigrants were ineligible for ISRT, unless everyone else was eligible for ISRT regardless of state residency (Olivas, 2004). Importantly, this federal legislation, which in part attempted to deny ISRT benefits to undocumented college students, has been interpreted differently across states resulting in a range of ISRT policies. Nonetheless, the postsecondary components of both IIRIRA and PRWOA limit access to higher education for undocumented students.

### ***DACA***

Most recently, and most relevant to our current political context, is the storied history of DACA. After years of activism led by progressive immigration organizations, President Barack Obama signed the Deferred Action for Childhood Arrivals (DACA) executive order in 2012 which granted eligible undocumented immigrants protection from deportation while working or attending college in the United States (Krogstad, 2017). Those approved for DACA are protected from deportation for an initial two-year period and this protected status can be renewed. As a consequence of DACA, nearly 790,000 undocumented immigrants are able to work and/or pursue higher education without fear of deportation (Krogstad, 2017). However, DACA does not mandate ISRT benefits for undocumented students nor does it offer a pathway to citizenship. In September of 2017, the U.S. Department of Justice attempted to fulfill a Trump presidential campaign promise

by ordering a wind down of DACA (National Immigration Law Center, 2019b). This controversial decision led to a number of institutional responses in Texas (Tapia-Fuselier & Young, 2019) and around the country (Squire et al., 2019) and was ultimately litigated in the federal courts. In June of 2020, the Supreme Court ruled that the Trump administration's decision to rescind DACA was arbitrary and capricious (*U.S. Department of Homeland Security v. Regents of the University of California*, 2020). Notably, the Court's decision did not go beyond this issue and rule on the merits of the program. Accordingly, the decision was limited to these procedural considerations.

### ***ISRT Policies***

In the absence of federal immigration legislation addressing the rights of undocumented immigrants, states are left to make their own decisions about undocumented students' access to public higher education (Barnhardt et al., 2013). Because the cost of attendance is one of the most imposing barriers higher education for undocumented students, particularly considering their ineligibility for federal financial aid, affirmative ISRT policies are especially important. As discussed, IIRIRA explicitly states that undocumented students cannot receive ISRT unless all other U.S. citizens are entitled to that benefit, regardless of residence. States have interpreted this in unique ways. Some states, for example, have granted ISRT to undocumented students by intentionally removing citizenship as an institutional residency requirement (National Immigration Law Center, 2019a).

In 2001, Texas became the first state to establish an affirmative ISRT policy supporting undocumented students (Flores, 2010a) with California following in 2002 (Flores, 2010a). Currently, only 20 states and the District of Columbia have tuition equity laws or policies that assist undocumented students with the cost of tuition, primarily granting undocumented students ISRT (National Immigration Law Center, 2019a). Those states are: California, Colorado, Connecticut, Florida, Hawaii, Illinois, Kansas, Kentucky, Maryland, Minnesota, Nebraska, New Jersey, New Mexico, New York, Oklahoma, Oregon, Rhode Island, Texas, Utah, and Washington (National Immigration Law Center, 2019a).

At the other end of the spectrum, there are states which explicitly prohibit public colleges and universities from offering undocumented students ISRT (e.g., Arizona, Georgia, and Indiana), and others that ban undocumented students from attending public institutions (e.g., Alabama and South Carolina), including community colleges (National Conference of State Legislatures, 2019). There are also many states which have no laws or policies related to undocumented students (National Conference of State Legislatures, 2019). The range of state policies across the country is complex and evolving. New legislative proposals that either extend or deny tuition equity for undocumented students are introduced each legislative session in states across the country (Ali, 2017).

The research indicates that affirmative ISRT policies have positive impacts on the enrollment of undocumented immigrants. Both Kaushal (2008) and Flores (2010b) analyzed Current Population Survey (CPS) data in quantitative studies examining this issue. It is important to note that the primary limitation of both of these studies is that there are no reliable statistics on the undocumented immigrant population in the United States; this information is not even collected in the U.S. Census (Flores, 2010b). However, the CPS provides the "closest level of detail on the presence of undocumented immigrants in a government survey" (Flores, 2010b, p. 243). Kaushal (2008) found that affirmative ISRT policies are associated with increases in college enrollment, retention, and graduation. Flores (2010b) reported similar findings, concluding that undocumented immigrants were more likely to enroll in postsecondary education after an ISRT policy is established in their respective state when compared to their counterparts in states without affirmative ISRT

policies (Flores, 2010b). The findings from these studies demonstrate the positive impacts that affirmative ISRT policies have for undocumented students.

## Conceptual Framework

Critical Whiteness Studies (CWS) serves as the conceptual framework from our study. CWS situates whiteness as not only a skin color, but as an institutionalized racial discourse (Leonardo, 2009). Whiteness can be seen as a form of cultural capital or a way of seeing and framing the world. Alongside an inherent commitment to “avoiding the contours of systemic racism,” whiteness minimizes the historical context and contemporary consequences of a racialized and racist United States (Cabrera et al., 2016, p. 18). Within this definition, white people and People of Color can engage in whiteness (Cabrera et al., 2016; Liu & Baker, 2016). Whiteness as an institution rewards white people and those who assimilate and engage in white discourses, creating a system in which people of all races may participate. The discourse of whiteness is hegemonic, pervasive, and undergirds our society’s systems and structures including higher education (Cabrera et al., 2016).

We rely on three related, but distinct, constructs of CWS, including ontological expansiveness, color evasiveness (i.e., color blindness), and individualization. First, ontological expansiveness, or white entitlement (Cabrera et al., 2016), describes guaranteed access to a given space. Put more simply, Sullivan (2006) explained that “white people tend to act and think as if all spaces... should be available to them to move in and out as they wish” (p. 10). Importantly, space in this context can be both physical and metaphorical (Cabrera et al., 2016). In this paper, we conceptualize space as referring to both physical college and university campuses as well as the policy space which dictates access to Texas public colleges and universities.

Second, color evasiveness is a racial ideology that whiteness relies on to explain disparate societal outcomes as being caused by anything other than racism (Bonilla-Silva, 2014; Cabrera et al., 2016). Adhering to this worldview necessitates a rhetoric avoidant of race (Bonilla-Silva, 2014); this is evident in ISRT policymaking. Bonilla-Silva (2014) offered four frames of colorblind racial ideologies, including abstract liberalism, naturalization, cultural racism, and the minimization of racism. Together, these frames allow systemic racism to be evaded and unquestioned, including in education policymaking, policy debates, and policy analyses.

Finally, individualization is a discourse that is deeply embedded in whiteness. This construct posits equal opportunity for success through a lens of individuals’ rights and freedoms (Augoustinos et al., 2005; Hastie & Rimmington, 2014; Hode & Meisenbach, 2016; Okun, 2010). In other words, individualism is “synonymous with personal self-reliance” (Okun, 2010, p. 16) and functions as a way to validate meritocracy. By crediting all successes, and all failures, to the merit of individuals, individualization necessitates an evasion of larger social structures (i.e., racism) that result in disparate economic outcomes (Okun, 2010). Threats to the ideology of individualization are met with white resistance.

CWS serves as a unique and useful framework to understand the discourse embedded in the ISRT debate in Texas. Anti-immigrant rhetoric is inextricably connected to whiteness (Moreton-Robinson, 2015) as well as anti-Black and anti-Brown rhetoric (Galindo & Vigil, 2006; Martinez, 2012; Muñoz & Vigil, 2018; Pérez-Huber, 2011); so too are the policy consequences. Notably, in 2018, 89% of undocumented immigrants who live in Texas were born in Mexico, Central America, or South America (Migration Policy Institute, 2018). With that in mind, we believe that evading race in a policy analysis on undocumented immigrants’ access to postsecondary education would only serve to reinforce whiteness. Moreover, the connection between nativism and racism has been explored. For example, Galindo and Vigil (2006) explained that nativism and racism, although

distinct concepts, absolutely overlap and interact. In describing the types of nativism which are evident in U.S. history, they explained the prominence of racial nativism which undergirds contemporary anti-immigrant sentiment. Galindo and Vigil (2006) went on to describe the fears embodied in racial nativism, including the ways in which policymakers, and the voters who elect them, fear immigrants are “a drain on public resources such as education and health care” (p. 424). Pérez-Huber (2011) conceptualized this connection between xenophobia and racism as racist nativism – “the institutionalized ways people perceive, understand, and make sense of contemporary U.S. immigration, that justifies native (white) dominance, and reinforces hegemonic power” (p. 380). To be sure, as Martinez (2012) asserted, “it is now well recognized that immigration law and policy necessarily implicate issues of race” (p. 129). Therefore, using CWS allows us to explicitly name and address whiteness as the dominant discourse within the ongoing ISRT debate.

## Methods

In order to answer our research questions, we employ tools of critical discourse analysis (CDA). CDA is an analytical tool that situates language within social practices. By looking critically at the discourse within documents, including policy documents, scholars can identify and illuminate the implications that language has for power and the distribution of social goods (e.g., access to higher education; Gee, 2011; Rogers, 2011). Although there are various forms of CDA, we recognize the centrality of an analysis of power in understanding the meanings and implications of the way language is utilized, particularly in legal debates. As Fairclough described, consideration of power should include “the power to,” “power over,” and “power behind” (Rogers, 2011 p. 4). These forms of power are manifested in the decision-making authority that legislators have in establishing or repealing bills and the material consequences of such decisions in the lived experiences of marginalized students. Additionally, CDA allows for critique of contradictions between what is claimed and what actually exists in social reality (Fairclough, 2011, 2015). This is particularly important as we sought to make connections between legislative discourse (with little “d” referencing grammatical structures) and the hidden Discourse that allows further meaning-making (capitalized to represent underlying ideologies indicative of social power; Rogers, 2004; 2011) of the messaging present in the debates for and against ISRT in Texas.

Because CDA stems from the theoretical principles of critical social theory in naming and confronting inequitable structures (Collins, 2009; Friere, 1970), it has connections to the principles of CWS (particularly the constructs of ontological expansiveness, color evasiveness, and individualization). For example, Rogers and Mosley (2006) utilized CDA to explore literacy education through the lens of whiteness, including consideration of white talk (McIntyre, 1997) in the ways that individuals maintain their privilege and avoid acknowledgment of racism. Although their study focused on the K-12 setting, they noted that where reinforcement of white privilege exists, extended conversations also provide opportunities through which “White people acknowledge Whiteness and the associated privilege and take responsibility for channeling this acknowledgment into conscious antiracist actions” (Rogers & Mosely, 2006, p. 483). CDA is also useful in examining formal policies. Policy documents, such as legislative bills, contain seemingly objective language. However, we recognize that the public debates, in this case pertaining to the repeal of ISRT for Texas undocumented students over the past 19 years, can provide further understanding of the intent behind legislative language as well as the strategies individuals utilize to challenge whiteness. Therefore, we, through CDA methodology, compared the language patterns and ideologies present in the arguments made in support of ISRT policies in Texas as well as the arguments made against ISRT policies in Texas.

## Data Sources

We draw from four data sources for this study, all of which are publicly available, and analyzed each as discussed below. First, we analyzed the language of House Bill (H.B.) 1403 in 2001 (i.e., Texas Dream Act) and Senate Bill (S.B.) 1528 in 2005 – the original legislative texts that ultimately granted undocumented students in Texas eligibility for ISRT and state need-based aid. Second, we analyzed the language of eight pieces of failed legislation that were offered to repeal H.B. 1403 and S.B. 1528. Both sets of data were retrieved through the Legislative Reference Library of Texas. Third, we analyzed the discourse present in the legal proceedings in the *Lone Star College System v. Immigration Reform Coalition of Texas* (2013), a public document accessible online. These three data sources were determined to be essential in understanding the legislative discourse and attending to the material power in which these formal documents hold.

Finally, and most central to our study, we analyzed statements made by policy makers, in their official capacities, who proposed or supported legislation that would create, maintain, or repeal H.B. 1403 and S.B. 1528; this includes public comments reported by the media. Although we did not verify these statements, we note that they were reported by media as direct quotes, typically found to be reliable and credible. While the aforementioned formal documents revealed the legislative discourse at play, these sources revealed the hidden discourse indicative of underlying ideologies of power maintenance. Additionally, we analyzed relevant public comments from community organizations and community members reported in the media, including comments made by undocumented students who are most impacted by ISRT legislation. We did this intentionally because policy research too often leaves out the voices of those most impacted by policies; we believe this is a mistake. Without such inclusions, the discourse driven by those in power sustains dominant narratives that are unchallenged. Therefore, we sought to ensure that the voices of undocumented students were represented in our analysis. All data sources were retrieved through purposive online searches. Using Google's search function, we identified these sources by generating a number of intentional searches that included four search terms: (a) Texas; (b) in-state resident tuition; (c) the year of a proposed legislative change; and (d) the name of the lawmaker who introduced the legislation. We then examined the first 20 findings for new sources (i.e., online news article) that were generated and determined the items that were relevant to our study. Then, we retrieved comments that were direct quotes relevant to the purpose of our study. These were all utilized as data sources for this study.

## Data Analysis

In order to make meaning of the data sources pertaining to the debates surrounding the Texas DREAM Act, we carried out CDA through the lenses of discourse, genre, and style (Fairclough, 2011; Rogers, 2011; Rogers & Mosley, 2006). Discourse entails ways of representing, in that texts relate to larger ideologies, and ultimately, social practices. We looked for Discourses directly related to CWS and anti-racist ideologies, such as dehumanizing through objective legality, myths of individualism/meritocracy, recognition of white privilege, and the material consequences of racism. Genre refers to the ways that texts interact. Within this frame, we sought to understand textual features such as use of repetition, counterarguments, or rhetorical questions. Within style, or ways of being, we looked for the ways that language relays identity through tools such as pronoun use (i.e., distancing the "other" through the use of we versus they), voice (active versus passive), and affective speech.

Although there are many approaches to CDA, we analyzed the data as informed by Fairclough (2015) to describe, interpret, and explain the language used in ISRT legislation and debates. First, in order to describe the data through textual relationships, we conducted line-by-line

readings of the data sources, noting various grammatical features across the data sources for individuals either for or against the repeal of the Texas DREAM Act. This pattern analysis included legislation. Although legal documents embed seemingly objective language, we recognize the foundational principles of whiteness rooted in U.S. institutions since the founding of this country, and thus embedded in such documents. During this reading, we noted patterns related to the areas of discourse, genre, and style. We then created a coding chart comprised of these three analytic tools (see Appendix A). Our coding scheme thus allowed us to think critically about the grammatical preferences on both sides of the ISRT debate which were utilized to reinforce whiteness as well as to challenge whiteness.

From these initial patterns, we then moved to interpretation and explanation of the data, processes through which texts are given value to ultimately make sense of power relations (Fairclough, 2015). Specifically, we looked for emergent codes that would allow a deeper understanding of the discursive strategies utilized by individuals on both sides of the debate. The speech patterns from individuals debating the possible repeal provided a means to make sense of the documents, not only from the lens of power from the policy makers, but also through the lens of policy consumers (Woodside-Jiron, 2011). In this sense, discourses (e.g., the financial support of undocumented students) become significant as they are situated “as parts of institutional and societal processes of struggle” (Fairclough, 2015, p. 14). These phases of the analysis allowed for an understanding that textual patterns reflect social realities (Gee, 2014). CDA thus allowed us to critically engage with the data sources in ways that name whiteness in order to disrupt it.

## Findings

The findings from our analysis are presented in two categories. First, we examined the discourse within the arguments for ISRT repeal in which we identified two themes: (a) reserving opportunity for whites, and (b) dehumanizing through objective legality. Then, we examined the discourse within the arguments for maintaining ISRT policies, in which we identified three themes: (a) humanizing through appeal to emotion, (b) hypocrisy of the American Dream, and (c) interest convergence. Keeping in mind the genre and style textual patterns from our coding scheme, we were able to reveal the larger discourses in Appendix A associated within the arguments of the two categories. Ultimately, discourses of whiteness within the repeal arguments aligned with issues of white entitlement, and discourses within the maintenance arguments acted to challenge inequity by revealing white privileges.

### Arguments for ISRT Repeal

As previously discussed, there have been eight attempts to repeal H.B. 1403 and S.B. 1528 which grants eligible undocumented students in Texas ISRT and need-based aid. All of these attempts have failed. Yet, we found the discourse surrounding each attempt similar and our analysis revealed ideologies of power and, ultimately, whiteness as discourse.

#### *Reserving Opportunity for Whites*

Despite failing to secure enough support to repeal affirmative ISRT legislation, policy makers continued to argue for the need to do so. The discourse that they invoked through these arguments connects to principles of CWS, specifically in the ways they attempted to name financial support as a right of white students in the sense of ontological expansiveness. This logic was seen through language that placed individual blame on undocumented students and invoked the need to protect the dominant group from such policies. In this sense, arguments against the affirmative

ISRT policy create an “us” versus “them” dichotomy which effectively others students through various strategies. Representative Kyle Biederman, who introduced repeal legislation in fall 2018, stated, “I am proud to fight for the taxpayer. Magnet policies that benefit illegal immigrants hurt citizens and those who immigrated here legally. We must remove these magnets and protect our border.” In his narrative, Biederman first makes claim to the argument that undocumented students, although long-term residents of the state, are not also taxpayers deserving of state benefits. Additionally, he establishes a narrative of victimization, in that attempts to challenge inequity will simultaneously take away something from the dominant group. Considering that 89% of Texas’s current population of undocumented immigrants were born in Mexico, Central America, or South America (Migration Policy Institute, 2018), his suggestions about them differing from immigrants who came to the country “the right way” reiterates an acceptance contingent on European background.

In addition to establishing a dichotomy of students based on citizenship and perceived right to higher education, arguments in support of a repeal also evidenced CWS constructs of ontological expansiveness and individualism through claims of white students’ right to occupy any given space. This sentiment was present in Senator Donna Campbell’s statement of intent submitted along with her repeal legislation introduced in 2015. In her statement of intent, she declared: “Each undocumented student takes away a valuable slot at a public university that is technically reserved for a Texas citizen.” This statement again positions undocumented students as taking a space that does not belong to them. The explicit use of “technically reserved,” although coded as for Texas citizens, connects to the sociohistorical context of education being reserved as a white property right. Another lawmaker, Representative Jonathan Strickland, who introduced repeal legislation in 2017, proclaimed in a public interview: “There are a lot of kids out there right now that cannot afford to go to school... who have played by the rules and their parents played by the rules.” This notion of “kids” refers to citizens of the state; in establishing their innocence, he also builds a false narrative that they are not already receiving ISRT. The idea of “playing by the rules” also minimizes the premise that such rules are designed and preserved by white individuals. In this sense, affirmative ISRT for undocumented students is a threat to white individualism and the rights of whites to occupy all spaces with no barriers (Cabrera et al., 2016; Sullivan, 2006).

State lawmakers consistently evaded race in their justification for ending affirmative ISRT while justifying the need for stringent law enforcement policies. In some cases, this justification conflated separate arguments and relied on current political tensions surrounding border security and anti-immigrant rhetoric. JoAnn Fleming, the executive director of Grassroots America - We the People, a conservative think tank, repeated this rhetoric when she stated: “Whatever it is you tolerate, you’re going to get more of. I think citizens should come first. If [undocumented parents] want their children to get in-state tuition, maybe they should make sure they’re legal residents first.” This notion that “citizens should come first” aligns with what Pérez-Huber (2011) termed racist nativism. Moreover, this represents an example of white entitlement to be prioritized in relation to access and funding; it also refers to undocumented students as an issue to be tolerated as well as an issue that might multiply if not regulated. This entitlement creates a high-stakes sense of fear in preserving whiteness. That is, what is perceived as an erosion of white entitlement to ISRT is an issue worth galvanizing around in ways that explicitly alienate and exclude undocumented immigrants. In this example, as well as in other instances, the word “should” is utilized to falsely position undocumented students and their parents as holding power. Yet, to be sure, they are dependent on the extant federal laws and subsequent limited pathways to citizenship, all of which are based on a dominant white standard of what qualifications are considered acceptable.

### ***Dehumanizing through Objective Legality***

Individuals have historically claimed that the law is neutral, objective, and free from bias. However, critical race theory (CRT) scholars have challenged these objectivity claims and acknowledged the inherent racism within institutions including the law (Brown & Jackson, 2013; Yosso, 2005). Even the wording within the original bills and subsequent attempts at repeal utilized *alien* as a blatant tactic to other and establish undocumented students as foreign from the dominant norm. Such anti-immigrant rhetoric is directly related to the institutionalized discourse of whiteness connected to CWS. In the 2013 case *Lone Star College System v. Immigration Reform Coalition of Texas* (IRCOT), the coalition repeatedly used the dehumanizing term to argue that Texas statutes in support of aid for undocumented students are preempted by federal law:

IRCOT further “seeks an order enjoining the defendants from making, approving, or forwarding a monetary grant to an illegal alien under the Texas Educational Opportunity Grant Program, the Toward Excellence, Access, & Success [TEXAS] Grant Program, or the Tuition Equalization Grant Program.”

The Court went on to state, “IRCOT asserts that illegal aliens attending state-supported universities in Harris County receive grants under the listed programs.” Not only did this coalition and the Court itself dehumanize undocumented students through the use of the term *alien*, they also reduced undocumented students to the simple terms of a grant recipient, thus ignoring their multidimensional identities and their lived experiences with racist nativism.

As the debate for ISRT for undocumented students persisted, legislators in support of the bill as well as the students most affected called out the dehumanizing aspect of denying equitable opportunity for some. However, those seeking to repeal the bill dismissed the counterargument by naming the law as objective, and therefore, requiring removal from emotion. Representative Jonathan Strickland acknowledged and dismissed the emotional counterargument, explaining: “There is a difference between personally feeling bad for somebody in a situation and legislating a priority. This isn’t an attack on individuals, even though I know they feel that way.” Through this counterpoint, he sought to position the attempt to provide opportunity for undocumented students as an unfair advantage violating the “neutral” nature of the law. This “anything but racism” argument rooted in whiteness also stands as a racial comfort, allowing individuals to ignore the dehumanizing feature of the bill and its subsequent impact on immigrants. Such tactics, examples of the color evasiveness component of CWS, serve the interest of white individuals and disregard the intimate connection between anti-immigrant sentiment and anti-Black and anti-Brown racism.

In 2018, in a quest to eliminate affirmative ISRT for undocumented students, Texas Governor Greg Abbott declared that he would not veto a repeal of the legislation, referring to the original legislators of the bill as taking up a “noble cause.” He further commented:

The law that passed said that these students who received in-state tuition had to demonstrate that they were on a pathway toward achieving legal status. However, there is no apparatus in the law to make sure that, in fact, is being done. Hence, the law as structured is flawed, and it has to be fixed.

In this statement, Abbott essentially blamed students for the historic inability of federal lawmakers to solidify legislation that would provide a pathway to a legal status. This tactic in seeking to repeal the legislation represented the privileged capital of whiteness as embedded in CWS, in that those in power can shift accountability to undocumented students who are denied equitable opportunities to higher education.

## Arguments for Maintaining ISRT Policies

In addition to analyzing the arguments made to repeal the state's affirmative ISRT policy, we examined the arguments made in support of the policy. These statements came from policy makers, community leaders, and, importantly, undocumented immigrants – the population directly impacted by the nature of the ISRT policy. Because all attempts to repeal ISRT policy in the state of Texas have failed, these arguments have demonstrated effectiveness. Still, we understood these arguments to be inextricably situated within the dynamics of power, race, and whiteness.

### *Humanizing through Appeal to Emotion*

Legislators, students, and groups seeking to support the continuation of the state's affirmative ISRT policy utilized affective language such as “cruel,” “tragedy,” “punishment,” and “harmful” to characterize the intent and subsequent consequences of proposed repeal legislation. Through this discourse, they sought to humanize undocumented students affected by the bill and appeal to the emotion of others as policy consumers. In 2010, Rick Noriega, a former Texas legislator who sponsored the original bill establishing ISRT for undocumented students, stated: “The alternative is to slam the door on any hopes and dreams. How are they going to perform in high school if they don't even have a chance at higher education?” In his appeal, Noriega dismissed legislators' counterarguments claiming that a K-12 education guaranteed through the *Plyler* (1982) case is enough. In that regard, this reference to the limited support for undocumented students after high school centers white entitlement in the ideal of hope (i.e., a better life) reserved for the dominant group. A student leader of Latino Advocacy Group at the University of Texas at Austin further challenged the sufficiency of the *Plyler* guarantee, expressing: “To a Dreamer and a DACA recipient, this is more than a simple bill...the likelihood of having a job that can provide for you is decreasing if you don't have a college degree.” Students who utilized the term “Dreamer” in their stance provided a reminder of the ideology behind the term itself. Equity policies, such as ISRT for undocumented students, challenge the ability to dream of a better reality, and ultimately the material value of a college degree as solely a white property right.

The ways in which individuals invoked emotion in their arguments served as a reminder of the purpose of equity policies in assisting those who do not hold power to change the circumstances or the privilege associated with the dominant group. This strategy included reference to undocumented students as innocent, including terms such as “children” and “kids.” Bill Hammond, former President and CEO of the Texas Association of Business, acknowledged the identity of affected students in recognizing the benefit of ISRT and Texas grants: “Both of those programs are essentially the difference between a kid being able to go to school or not.” The use of “kid” in this passage stood in resistance to the criminality associated with undocumented students, and more broadly, Black and Brown youth. This verbiage appeals to the idea that marginalized Students of Color, othered by their race and citizenship status, can also take on a characterization of innocence assigned to white students. Connected to our CWS framework, such language rebuts principles of whiteness associated with anti-immigrant and anti-Black/Brown rhetoric that situate undocumented students as not worthy of support.

Former Governor Rick Perry, who signed the affirmative ISRT policy into law during his tenure, still verbalized support of the legislation during a 2011 GOP presidential debate: “If you say that we should not educate children who come into our state for no other reason than that they've been brought there through no fault of their own, I don't think you have a heart.” Perry's discourse represents a resistance to arguments that undocumented students should take on culpability for their current state, giving insight on the legislation's intent to recognize those students as children upon their entrance who lacked the power to create their own pathway to citizenship. Although this

appeal through emotion appears to advocate for undocumented students, it also positions legislators as white saviors, failing to recognize the material consequences of racism experienced by immigrants and People of Color.

### ***Hypocrisy of the American Dream***

Individuals also explicitly named the hypocrisy of the American dream, particularly in the ways that whiteness emphasizes meritocracy and individualism. An undocumented student at the University of North Texas confronted this double standard:

It all comes down to your GPA, your extracurricular activities. What makes you qualified to be admitted into a university? I don't believe [the questions] should be, were you born here or not? And do you deserve an education or not? I definitely believe it's a reflection of your effort based on your grades and your involvement in the community.

Many students referred to this myth of meritocracy, an idea connected to the American dream, as a foundational principle of the country. In fact, students acknowledged this hypocrisy in associating this colorblind ideology of “pulling yourself up by the bootstraps” with privileged ideologies of whiteness (Bonilla-Silva, 2006). Without an equity policy such as ISRT, undocumented students are not provided the chance to “prove” themselves because of the barrier of aid. An undocumented student at the University of Texas at El Paso stressed that students “shouldn't be forced to be in a position of disenfranchisement or discrimination.” The use of “force” as an active verb served as a reminder that despite “objective” legal language, legislators acting through policy have the power to oppress marginalized individuals. That student reiterated, “I graduated high school magna cum laude and had over \$200,000 in scholarships, which I couldn't receive due to my immigration status.” In this sense, the requirement of citizenship to receive college aid can be utilized by policy makers to preserve education as a white property right.

Texans for Economic Growth, a business coalition, although mainly making arguments in support of the economic benefit of the bill on the state, through their discourse recognized the contradictory nature of meritocracy. They provided statistics as evidence: “Students who benefited from HB 1403 earned \$19.7 billion more than they would have without a college degree.” This statement establishes success as based on capitalist ideals and contingent on access to resources. In concentrating on the economic success as a result of attaining a college degree, they establish that these students would not have been able to achieve without the help of aid, despite any individual efforts at hard work.

### ***Interest Convergence***

Finally, interest convergence (Bell, 1980) was an evident theme in the discourse. For example, in 2015 when former Texas Governor Rick Perry was asked about signing this legislation and he responded:

[Texas] had a choice to make economically: Are you going to put [undocumented immigrants] in a position of having to rely upon government to take care of themselves, or are you going to let them be educated and be contributing members of society.

This is a clear indication of interest convergence (Bell, 1980) in which the economic interests of power-holding whites converged with the access interests of the state's undocumented immigrant movement. Perry's language also makes the power dynamic in this instance abundantly clear, noting the critical role that lawmakers play in marginalized populations' lived experiences. Some elements

of the arguments to maintain the existing ISRT policies for undocumented students also demonstrated interest convergence, placing economic growth at the forefront of public comments. For example, an official from Texans for Economic Growth said, “if residency requirements were changed, it could lead to nearly \$400 million in lost economic activity for Texas each year.” Similarly, the co-founder of Texans for Sensible Immigration Policy stated that the ISRT policy is important because it allows for “a better educated workforce [that] makes the Texas economy stronger.” These appeals to interest convergence are notable in that they promote affirmative ISRT policies for undocumented students, but in a way that foregrounds the policy’s benefits for the larger economic interests of the state.

## Discussion and Implications

These findings reveal how the discourse of the ISRT debate in Texas is both informed by and shapes the larger Discourse in which power-holding whites strive to maintain dominance through policy enactment. The arguments against affirmative ISRT policies for undocumented students in Texas are firmly situated in an “us” versus “them” frame. There is a demonstrative and unapologetic aim to preserve postsecondary opportunities for whites and dehumanize undocumented immigrants through objective legality. The aim to minimize the existence of undocumented immigrants into a single dimension of illegality is troubling; this also serves to uphold whiteness. On the other hand, the arguments supporting affirmative ISRT policies for undocumented students in Texas seek to humanize undocumented immigrants through emotional language. Arguments supporting ISRT policies also point out the hypocrisy that upholds the American dream construct and appeal to notions of interest convergence.

We note two compelling implications for future research. First, we believe that explicitly naming and disrupting whiteness as a pervasive, hegemonic discourse is critical to the project of achieving educational equity (Cabrera et al., 2016). Because of the unstable landscape of the ISRT policy in Texas and others across the country, scholars and activists alike should work to identify how whiteness is being operationalized in the discourse. Although the use of CWS is still emerging in the higher education research space and is particularly scarce in the higher education policy arena (Cabrera et al., 2016), we believe this framework offers a helpful lens to engage in this work. Moreover, our belief is that appropriately grappling with whiteness as an undergirding force in education policy creates space and urgency for researchers and education leaders to imagine liberatory, racially just policies that lead to equitable educational outcomes. To be sure, these outcomes extend beyond the scope of undocumented immigrants in postsecondary education. In fact, we wonder how a shared critique of whiteness, along with a unified focus on dismantling whiteness, might illuminate more opportunities for coalitions across Black, Brown, and Indigenous populations to emerge.

Second, as CRT was founded on the insistence that legal analyses failed to center the discussion of race and racism (Morfin et al., 2006), scholars must continue to challenge the claim that higher education legislation is grounded on objectivity. As seen in the original legislative bills establishing ISRT and subsequent legal proceedings challenging the policy, these documents often utilized the term *alien*. Such language holds a racialized meaning rooted in whiteness that labels individuals with an immigrant status as deficient and marginalized outsiders. Not only should practitioners oppose the use of such language in creating or revising existing policies, but researchers can also use methods such as CDA to connect the textual features of policy with the underlying ideologies that illuminate social inequalities. Additionally, we encourage scholars to include the voices of those most impacted by policies and the surrounding policy discourse (e.g., the voices of

undocumented immigrants) in analysis. This not only allows for a more comprehensive analysis of discourse, but it also does the critical work of elevating and amplifying voices too often marginalized in both research and practice.

## Conclusion

As we consider the number of unique and structural barriers imposed on undocumented college students, including issues related to ISRT policies, we would be remiss if we did not acknowledge that this study is situated within the United States' historical treatment of immigrants and contemporary political climate respective to immigration. As Go (2017) argued, the United States has historically operated as a "liberal empire-state" and has a deep history of subjugating human bodies and foreign territories (p. 70). Today, domestically, our political climate includes toxic debates regarding immigration reform (Hulse, 2018), opposition to sanctuary cities and campuses (Chokshi, 2017), and hard line, zero-tolerance border enforcement policies that have led to inhumane family separation and child isolation (Montanaro, 2018). Moreover, immigration rhetoric grounded in a "build that wall" mantra has resulted in policy enactments negatively impacting undocumented college students, including attempts to end federal programs such as DACA as well as state-wide policies such as Texas's ISRT policy.

This study worked to illuminate the overt and pernicious ways in which whiteness is embedded in the discourse around policies that directly impact undocumented college students. More specifically, we revealed the ways in which arguments against affirmative ISRT policies for undocumented students in Texas perpetuate legacies of racism and contribute to the project of whiteness. On a scholarly and practical level, we believe that efforts to advocate for undocumented college students in Texas should center the full humanity of undocumented immigrants in the policy space while explicitly naming and disrupting the whiteness that pervades the process.

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## Appendix

### Critical Discourse Analysis – Coding Chart Texas Debate on In-State Resident Tuition for Undocumented Students

#### Genre (Rogers & Mosley, 2006)

- Changing the topic
- Conflating separate arguments
- Consensus/reference to unified stance
- Dismissing counterarguments/counterpoints
- Evading questions
- Making a counterpoint
- Metaphors
- Referring to previous discourse to support arguments
- Repetition
- Resistance
- Rhetorical questions
- Silences
- Staying on Topic

#### Style (Rogers & Mosley, 2006)

- Active voice
- Affective/emotional speech
- Distancing from “other”
- Nominalizations (turning verbs into nouns; e.g., discrimination instead of discriminated against)
- Passive voice
- Politeness
- Pronoun usage showing distancing (you, they)
- Pronoun usage showing commonality (we, us)
- Use of first person
- Use of third person

#### Discourse (Cabrera et al., Matias & Mackey, 2015; Rogers & Mosley, 2006)

- Color evasiveness through claims of racial ignorance
- Dehumanizing through objective legality
- Equality versus equity arguments
- Emotion as an expression of social hierarchies/power
- Material consequences of racism/racial hierarchies
- Myths of individualism/meritocracy
- Recognition of privilege that benefits White individuals and others marginalized individuals
- Reverse racism as a narrative of victimization to defend inequity
- White entitlement through ontological expansiveness (space)
- Whiteness and privilege as normal function within institutions
- Whiteness as property related to tuition and college access
- Whiteness manifested and maintained through legal action
- Interest convergence

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# education policy analysis archives

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