

A report from



THE PEW CHARITABLE TRUSTS

| April 2014



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Immigration and Legalization

Roles and Responsibilities of States and Localities

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Acknowledgments

The project team thanks John Burrows, Samantha Chao, Diana Elliott, and Bilal Habib for providing valuable feedback and suggestions. Lauren Dickenson, Thomas Emerick, Sarah Leiseca, Megan McVey, Jeremy Ratner, Michael Remez, Frederick Schecker, and Kate Starr also provided editorial, design, and production assistance on the report.

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The Pew Charitable Trusts is driven by the power of knowledge to solve today's most challenging problems. Pew applies a rigorous, analytical approach to improve public policy, inform the public, and stimulate civic life.

Overview

Only the federal government can give lawful status to immigrants who are not U.S. citizens, but states and localities play an important part in implementing legalization programs and integrating newly legalized immigrants into their communities. Past and current experiences provide valuable insight into the potential roles and responsibilities of states and localities if the U.S. government were to enact a new large-scale legalization program.

During the past century, the government has made several efforts to bestow some type of legal status on unauthorized immigrants or to provide relief from deportation. (See Appendix A.) This report examines the function of states and localities in implementing the Immigration Reform and Control Act, enacted in 1986, and the Deferred Action for Childhood Arrivals program, initiated in 2012, to inform states and localities of their potential roles in implementing a new legalization program.

Two Programs That Can Guide Planning for the Future

The Immigration Reform and Control Act, which took effect in the late 1980s, included several distinct programs to legalize and grant permanent residence to noncitizens living in the United States if they met specified criteria. The largest were the general legalization program and the Special Agricultural Worker program. The former created a multistage path to citizenship for qualified unauthorized immigrants. Applicants could receive temporary status if they met the requirements, including having lived in the United States since 1982. Those with temporary status could apply for permanent legal status if they met additional requirements, which included proof of English language competency and knowledge of U.S. civics and history. Unauthorized farm laborers could obtain permanent resident status through the Special Agricultural Worker program if they met requirements for physical presence and agricultural work.

The law also included State Legalization Impact Assistance Grants, which reimbursed states and localities for the costs of providing basic health, welfare, and education services for the newly legalized, including English language and civics training needed to fulfill the requirements for becoming permanent residents.

The Deferred Action for Childhood Arrivals program, launched by the Obama administration in 2012, provides temporary relief from deportation to qualified individuals on a case-by-case basis. Those granted deferred action are authorized to be present in the United States. They are eligible for employment authorization documents and Social Security numbers. Relief under the program is renewable, but beneficiaries are not, by virtue of this program, made eligible for legal permanent residency. Intended for young people brought to the country by their parents, applicants must meet age, education, and residency requirements.

Since the last major legalization in the 1980s, the number of immigrants in the United States has greatly increased, and they are much more widely dispersed across the country. If a broad new legalization program were to be enacted, the six states that have historically received the most immigrants would certainly be the most affected, but other states, less traditionally associated with large immigrant populations, also are likely to have significant numbers of immigrants eligible for the new status. This means that many states likely to be affected by a new legalization program do not have much experience implementing such programs.

Since the last major legalization in the 1980s, the number of immigrants in the United States has greatly increased, and they are much more widely dispersed across the country.

About 2.7 million immigrants were legalized under the Immigration Reform and Control Act's general legalization and Special Agricultural Worker programs.¹ Hundreds of thousands are poised to benefit from the ongoing Deferred Action for Childhood Arrivals initiative. A broad new program, however, could lead to legalization of many of the 11.7 million unauthorized immigrants living in the United States, depending on how it is crafted.² It is impossible to precisely estimate how many would be eligible without knowing specific eligibility requirements. In addition, of those eligible, not all would choose to pursue legalization.

Recent legalization proposals in Congress have focused on three groups of unauthorized immigrants: those who arrived in the United States at a young age, unauthorized agricultural workers, and other unauthorized immigrants who have been in the country for an extended period of time. Eligibility requirements for these types of legalization programs may be based on age, education, length of U.S. residency, criminal record, length of employment in the United States, payment of taxes, payment of application fees and fines, and knowledge of English and U.S. history.

The Congressional Budget Office has estimated that about 8 million unauthorized immigrants already in the United States could be eligible to obtain legal status if the 2013 Senate-passed bill (S. 744) were enacted.³ Depending on the type of program, eligibility requirements, and other factors—such as the level of outreach provided by all levels of government—this number could shift up or down.

Roles and responsibilities of states and localities

The magnitude of a new legalization program could be significantly different from past programs, given the number of unauthorized immigrants in the United States today and their locations across all 50 states and the District of Columbia. Still, we can learn about the potential roles of states and localities in implementing such a program by examining previous efforts.

The Immigration Reform and Control Act and the Deferred Action for Childhood Arrivals program differ in scale, goals, and reach. One was a law that led to the legalization of several million unauthorized immigrants in the late 1980s, while the other is an ongoing administrative directive that has provided temporary relief from deportation to more than 500,000 qualified young people brought to this country by their parents as children. However, the experiences with both show that states and localities have been required, or have chosen, to take on various roles and responsibilities during implementation. Among the most critical:

- **Outreach and public education.** States and localities may inform potential applicants about programs and provide information about the application process.

- **Documentation.** State and local governments may be the source of the documentation that applicants need to meet certain eligibility requirements, including presence in the United States for a defined period and proof of educational attainment.
- **Education.** State and local institutions are likely to be the source of English language and U.S. history and civics education, as well as other specified education that applicants may need to qualify for a legalization program.
- **Protection from fraudulent or predatory providers of immigration legal services.** States have played a prominent role in protecting noncitizens from fraudulent activities targeting them and promising legal status for a fee—a practice that has historically occurred when the federal government has announced a legalization or immigration relief program or even when there have been rumors of a possible new legalization program.

Other roles that state and local governments have had and could assume in the future include coordinating among various government agencies and nongovernmental organizations, monitoring implementation, and assessing the future needs of a newly legalized population.

Help from the federal government

As part of the Immigration Reform and Control Act, Congress created State Legalization Impact Assistance Grants to reimburse states and localities for certain expenses related to the new legalization programs. The law provided \$1 billion annually for four years—a total of \$4 billion—and allowed the spending to take place over seven years from the date of enactment.⁴ The funding provided an opportunity for states and localities to influence and customize the implementation of legalization within the states. Its implementation, however, created challenges as well, as states and localities faced significant delays in getting reimbursements.

Conclusion

The magnitude of involvement of states and localities depends, of course, on the type and details of the legalization program enacted and, to some extent, on the jurisdictions' desire to engage in these policies. The specific eligibility requirements and the amount of time applicants have to fulfill them also are important in determining what states and localities may need to do—and how much time they will have to prepare for and respond to applicants' needs. In addition, states and localities face their own fiscal and economic challenges. Still, they are on the front line of integrating immigrants into their communities. They therefore have strong incentives to make sure a federal legalization program is implemented successfully.

This report focuses solely on the roles and responsibilities of states and localities during implementation of a legalization program. It does not examine the roles of other entities, such as nongovernmental organizations, that may overlap with state and local responsibilities, nor does it consider the fiscal and economic impacts of legalization that can extend well beyond initial implementation. In addition, it does not analyze the roles that states and localities may have regarding implementation of other elements of comprehensive immigration reform, such as immigration enforcement.

Pew has no position on whether Congress should pass legislation on immigration, but believes that state and local governments can be prepared to implement a possible federal initiative. It is also critical that the role of states and localities be taken under consideration as Congress considers immigration legislation.

Determining how many would be eligible

Since the early 20th century, the federal government has established a number of programs designed to legalize certain people residing in the United States in violation of immigration laws or to provide some form of relief to those at risk of deportation. Some of these programs have resulted from laws passed by Congress, while others have been administrative in nature. Some have granted permanent legal status; others have bestowed temporary legal status. Still others have provided temporary relief that does not constitute a legal immigration status but accords protection from deportation.⁵ Eligibility requirements for these types of legalization programs may be based on age, education, length of U.S. residency, criminal record, length of employment in the United States, payment of taxes, payment of application fees and fines, and knowledge of English and U.S. history. (See Appendix A for information about select legalization programs.)

The experiences with the legalization provisions of the Immigration Reform and Control Act of 1986 and the Deferred Action for Childhood Arrivals program, initiated in 2012, provide concrete examples of the roles taken on by states and localities. But population trends show that unauthorized immigrant populations have grown and are more widely dispersed across the country today than in the late 1980s. And that means the number of people and states potentially affected by a new legalization program also has increased significantly.

The Immigration Reform and Control Act of 1986

The 1986 Immigration Reform and Control Act, or IRCA, included several programs to legalize certain noncitizens living in the United States without authorization. The largest were the general legalization and the Special Agricultural Worker programs.

The general, or “pre-82,” legalization program created a multistage path to citizenship for certain unauthorized immigrants. In phase one, applicants could acquire a temporary legal status once they demonstrated they had been in the United States since the Jan. 1, 1982, cutoff date, paid a filing fee, and met other basic requirements. After a minimum of 18 months in approved temporary status, during stage two they could apply for permanent legal status if they met additional physical presence requirements, provided proof of English language competency, and passed an examination traditionally reserved for applicants for naturalization on the subjects of U.S. civics and history. They also had to pay another application fee.

Unauthorized agricultural workers could obtain permanent resident status through the Special Agricultural Worker, or SAW, program if they met requirements for physical presence and agricultural work. (Detailed eligibility requirements for the general legalization and SAW programs are listed in Appendix B.)

Under IRCA, California and Texas saw the most applications. They and three other “traditional” immigrant-receiving states—New York, Illinois, and Florida—accounted for more than 70 percent of those receiving legal permanent resident status nationwide. (For data on all states’ IRCA application and approval rates, see Appendix C.) As of 2009, 53 percent of those who received legal permanent residence under the general legalization program became citizens; that number was 34 percent under the SAW program.⁶

Table 1

Immigrants Receiving Legal Permanent Resident Status Under the Immigration Reform and Control Act Are Concentrated in a Few States

| State | Estimated eligibility for general program, pre-1982* (thousands) | Total receiving LPR status through the general legalization program† | Total receiving LPR status through the SAW program† | Total receiving LPR status (percent of national total) |
|---|--|--|---|--|
| All states | 1,342-2,662 | 1,611,910 | 1,093,092 | 2,705,002 (100%) |
| California | 685-1,374 | 882,779 | 556,487 | 1,439,266 (53.2%) |
| Texas | 130-267 | 281,584 | 128,321 | 409,905 (15.2%) |
| New York | 128-230 | 104,787 | 42,671 | 147,458 (5.5%) |
| Illinois | 88-174 | 110,719 | 33,376 | 144,095 (5.3%) |
| Florida | 53-105 | 44,927 | 98,037 | 142,964 (5.3%) |
| Arizona | 16-32 | 26,534 | 38,897 | 65,431 (2.4%) |
| New Jersey | 17-27 | 26,499 | 13,918 | 40,417 (1.5%) |
| Washington | 15-29 | 9,231 | 24,331 | 33,562 (1.2%) |
| New Mexico | 9-19 | 14,488 | 11,130 | 25,618 (.9%) |
| Oregon | 11-22 | 3,934 | 20,034 | 23,968 (0.9%) |
| All other states and territories | 190-383 | 106,428 | 125,890 | 232,318 (8.6%) |

* U.S. Immigration and Naturalization Service, Office of Plans and Analysis, "Estimated pre-1982 Population Eligible to Legalize, by State," Memorandum to Mark W. Everson, executive associate commissioner, CO 1239/C Oct. 31, 1986.

†Pew analysis of data from the U.S. Office of Immigration Statistics, Office of Immigration Statistics, Department of Homeland Security, personal communication, March 5, 2013.

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The Deferred Action for Childhood Arrivals Program

On June 15, 2012, the Department of Homeland Security issued a directive that created a process to grant protection from deportation to certain unauthorized immigrants brought to the United States as children. Known as Deferred Action for Childhood Arrivals, or DACA,⁷ the program is not a legalization process that grants permanent legal status to those who qualify, but rather, it provides temporary relief from deportation on a case-by-case basis. There is no application period, but the initiative may be terminated at any time by the administration.

Those granted deferred action are authorized to stay in the United States and are eligible for employment authorization documents and Social Security numbers. Relief under the program is renewable every two years, provided the recipient continues to meet eligibility criteria, but beneficiaries are not, by virtue of this program, made eligible for legal permanent residency.⁸ To qualify, an applicant must meet age, education, and residency requirements. (Detailed eligibility requirements are included in Appendix B.) According to the Migration Policy Institute, approximately 1,090,000 people met the requirements as of August 2013 and were immediately eligible for this program.⁹ The number of people immediately eligible to apply changes frequently as individuals turn 15 years old, graduate from high school, or otherwise meet the requirements.

According to the most recently available monthly statistics from the U.S. Citizenship and Immigration Services, between Aug. 15, 2012, and Dec. 31, 2013, over 610,000 applications were accepted. Of these, about 85 percent were approved.¹⁰ California, Texas, and other states with historically large immigrant populations continued to top the list (see Table 2), but nontraditional immigrant-receiving states such as North Carolina and Georgia also saw significant numbers of applications filed.



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Table 2

Top Ten States With Most Deferred Action for Childhood Arrivals Program Applicants

| State residence | Estimated number immediately eligible as of August 2013* | Accepted for processing as of Dec. 31, 2013† | Accepted state applications as percentage of national accepted applications‡ |
|-----------------|--|--|--|
| California | 311,000 | 174,241 | 28.5% |
| Texas | 165,000 | 100,061 | 16.4% |
| Illinois | 49,000 | 33,936 | 5.6% |
| New York | 86,000 | 32,086 | 5.3% |
| Florida | 65,000 | 25,720 | 4.2% |
| Arizona | 33,000 | 21,625 | 3.5% |
| North Carolina | 26,000 | 21,389 | 3.5% |
| Georgia | 28,000 | 20,019 | 3.3% |
| New Jersey | 36,000 | 17,495 | 2.9% |
| Washington | 25,000 | 13,150 | 2.2% |
| All states ‡ | 1,090,000 | 610,694 | 100% |

* Jeanne Batalova, Sarah Hooker, and Randy Capps, "Deferred Action for Childhood Arrivals at the One-Year Mark," Migration Policy Institute (August, 2013).

† U.S. Citizenship and Immigration Services, "Deferred Action for Childhood Arrivals Process Through Fiscal Year 2014, First Quarter" (Feb. 6, 2014), data through Dec. 31, 2013.

‡ Includes the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and nonreported states.

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A changing landscape

The impact of a broad new legalization program would be felt in more states today than when IRCA was implemented in the 1980s. At that point, unauthorized immigrants were concentrated in a few states, and over half of those who became legalized lived in California. Today, unauthorized immigrants are much more dispersed, and large numbers of potential beneficiaries are found in nearly all 50 states and the District of Columbia. (See Figure 1.)

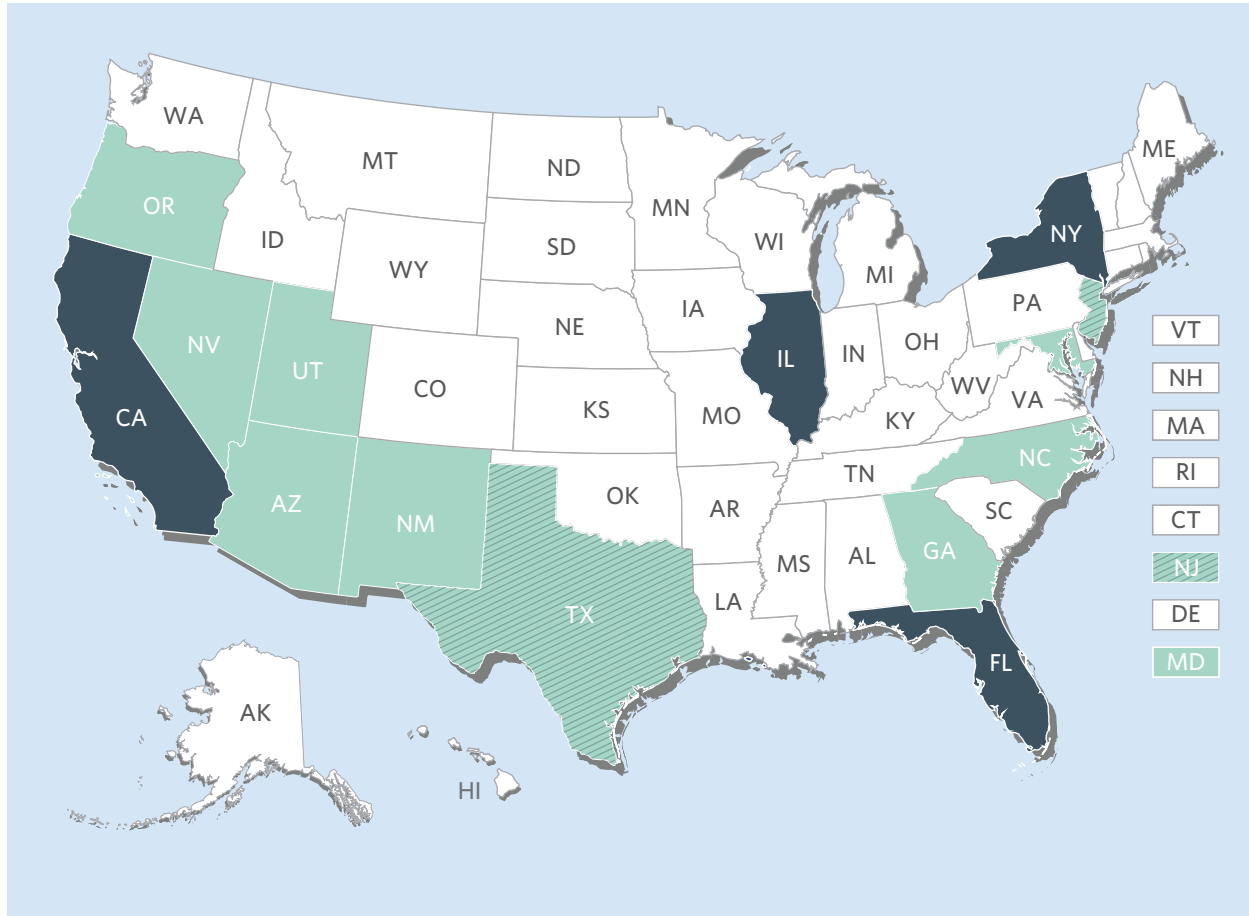
Though California remains the state with the largest unauthorized immigrant population (23 percent of the national total), nontraditional states have seen sharp growth in their unauthorized populations over the past two decades. In Georgia, for example, less than 1 percent of the state's population was unauthorized in 1990; in 2010 it was 4.4 percent for a total change of 3.9 percentage points over 20 years. In Arizona, 2.5 percent of the population was unauthorized in 1990; by 2010 that proportion had climbed to 6.2 percent. (Data for all 50 states and the District of Columbia are included in Appendix D.) Thus many states may be affected, depending on how many unauthorized immigrants would be eligible for a new legalization program.

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Figure 1

Unauthorized Population Increases and Affects More States Traditional vs. new immigrant states



■ States with largest number of unauthorized immigrants in 1990 and 2010 ■ States with largest change in unauthorized as share of total state population, 1990-2010* ■ Both

* Change is equal to the percentage point difference between the percent of the state's total population that was unauthorized in 2010 and the percent of the state's total population that was unauthorized in 1990.

Source: Pew analysis of data from Pew Research Center, Hispanic Trends Project and U.S. Census.

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Potential eligibility requirements

The number of people who may be eligible for a new legalization program will depend on the criteria established by Congress. Over the past decade, several legalization proposals have been proposed by Congress, and these provide a baseline for what a new program could include.

Unauthorized immigrants. The immigration bills passed by the Senate in 2006 (S. 2611) and 2013 (S.744), as well as other immigration reform bills, included provisions that allowed unauthorized immigrants who meet eligibility requirements to obtain legal status, permanent residency, and eventually, U.S. citizenship. Based on previously proposed legislation, a legalization program could include:

- A registration process that would require unauthorized immigrants to file an application with relevant documentation. Eligibility criteria could include proof of physical presence in the United States for a particular period of time, evidence of employment for a period of time, lack of serious criminal history, passage of background checks, and payment of an application fee or fine. Those who qualify would receive a provisional legal status and work authorization.
- After several years, those with provisional status could apply for legal permanent residence (a green card), provided they met eligibility criteria. Eligibility criteria could include proof of employment, payment of taxes owed, lack of serious criminal history, payment of application fee or fine, and demonstration of knowledge of English and U.S. history and civics.
- After several years, those with legal permanent residence could apply for U.S. citizenship.

Unauthorized immigrants who arrived at a young age. The “DREAM Act” was first introduced in Congress in 2001 and has been reintroduced in every session since. Its provisions are included in the comprehensive immigration reform bills passed by the Senate in 2006 and 2013. The act would provide a separate legalization process for certain young unauthorized immigrants. Based on these measures, a comparable program could allow certain people to obtain legal permanent residence (or provisional legal status leading to permanent status) and eventual U.S. citizenship. Applicants would have to meet eligibility requirements that could include:

- Arrival in the United States at age 16 or younger.
- U.S. high school or General Educational Development, or GED, diploma.
- Postsecondary degree, completion of several years of a postsecondary program, or service in the U.S. military.
- No serious criminal record.

Unauthorized agricultural workers. The Agricultural Job Opportunities, Benefits, and Security Act, or “AgJOBS” bill, which would legalize unauthorized farmworkers, has been introduced in the House every session between 2003 and 2013. A version was included in the comprehensive immigration reform bills that passed the Senate in 2006 and 2013. Based on those models, the agricultural legalization program could include:

- A registration process that would result in a provisional immigration status. Eligibility criteria could include proof of agricultural work experience for a specified period of time, and a lack of serious criminal history.
- After several years, those with provisional status could apply for legal permanent residency if they meet the eligibility criteria. That could include proof of continued agricultural work for a specified period of time and payment of taxes owed.
- After several years, those with legal permanent residence could apply for U.S. citizenship.

It is difficult to assess how many people might be eligible to legalize under any given scenario without knowing the type of program, the specific eligibility requirements, the length of time potential beneficiaries will have to apply, or other factors. But as a point of reference, the Congressional Budget Office, or CBO, estimated that approximately 8 million unauthorized immigrants already in the United States might be eligible to obtain legal status if the 2013 Senate-passed bill (S. 744) were enacted.¹¹

Table 3
8 Million Estimated Eligible Under 2013 Senate Bill

| Legalization program | CBO estimate of beneficiaries |
|--|-------------------------------|
| General legalization | 5 million |
| Legalization for those who entered before age 16 | 1.5 million |
| Agricultural worker legalization | 1.5 million |
| Total | 8 million |

Source: Congressional Budget Office, “Cost Estimate, S.744 Border Security, Economic Opportunity, and Immigration Modernization Act” (June 18, 2013).

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Roles and responsibilities of state and local governments

Implementing a legalization program involves many players, including multiple federal agencies, state and local government bodies, community-based organizations, and the applicants themselves. Only the federal government can process and adjudicate the applications and grant lawful status. But additional tasks and responsibilities fall to state and local entities. These include providing outreach, documentation, and educational services needed by applicants to meet eligibility requirements. In addition, many states have acted in recent years to protect unauthorized immigrants from fraud as they try to attain legal status.



Outreach

In previous legalization efforts, states and localities have voluntarily provided outreach and education about the legalization program. They also have provided information about the application process to potential applicants. Creative outreach efforts have helped increase awareness and encourage participation. States and localities are likely to play that role again in any new federal legislative effort.

Immigration Reform and Control Act

The federal government and community-based organizations were largely responsible for conducting public outreach and education about the law's legalization programs. Although not required to do so, some state and local governments also played a key role during the initial stage of the general legalization program—the applications for temporary status. In fact, researchers found that active involvement by local governments “encouraged greater application rates ... [and] corresponded to a higher level of awareness and understanding of the program.”¹² For example:

- In Los Angeles and Houston, the federal government—through its local legalization offices—worked with local governments to conduct extensive outreach through local media and other public forums.¹³
- In New York City, municipal and state officials actively publicized the legalization program. State legislators who were members of the state “Task Force on New Americans” organized a mass mailing to constituents about legalization and procured \$800,000 in state funds for outreach and assistance.¹⁴ The Mayor’s Office of Immigrant Affairs created two task forces to identify barriers to legalization and to coordinate city public services for the newly legalized. The city also created a legalization information hotline, funded jointly by the city, the state, and the federal government.¹⁵
- In Chicago, the local government worked with community-based organizations to produce outreach materials for the city’s immigrant communities.¹⁶

State and local governments were less involved in outreach efforts for the second phase of the general legalization program—adjustment to

legal permanent residence—in large part because the State Legalization Impact Assistance Grants funding they received after the completion of phase one could not be used for these purposes.¹⁷ (See “Federal help for the states.”)

Deferred Action for Childhood Arrivals

Although not required, some states and localities have chosen to play a role in publicizing and providing information about implementation of the current program. For example:

- In Illinois, the Governor’s Office on New Americans, the Department of Human Services, and the Bureau of Refugee and Immigrant Services hosted meetings with stakeholders to coordinate efforts around DACA, address concerns, share best practices, prevent misinformation, and increase efficiency. Stakeholders included legal assistance organizations, community-based organizations, and private foundations.¹⁸ The city of Chicago supported DACA workshops in which volunteers assisted applicants in filling out the necessary forms. The city has also provided training for counselors in the public school system to provide guidance to students about the program. Public schools also have been used as venues to conduct application workshops.¹⁹
- In the Dallas area, service providers noticed that some applicants did not have computers at home and therefore were unable to complete online questionnaires or to receive email notifications. Public libraries are now working with service providers to help applicants use public computers and set up email addresses.²⁰
- On June 30, 2013, U.S. Citizenship and Immigration Services joined forces with local libraries to hold promotional citizenship events, provide immigration training services for local public library staff, and supply informational materials for the community, including information about DACA.²¹ To accomplish this, the agency entered into a formal partnership with the Institute of Museum and Library Services, a federal grant-making institution for state, local, and tribal library systems.²²



Documentation

States and localities also play an important role in providing applicants with the documentation they need to prove they meet the requirements of the legalization program. Applicants generally must provide evidence of presence in the United States on a particular date and for a continuous period of time thereafter, proof of educational attainment, and/or proof of work experience. State and local government entities often are the source of the required documentation.²³ Depending on the design of the application period, applicants may need required documents quickly, or they may have a longer period to collect them. In addition, privacy issues may arise with school transcripts that educational institutions and governmental entities must address.

Immigration Reform and Control Act

Applicants for IRCA’s general legalization program needed to prove they had entered the United States before Jan. 1, 1982, and had resided continuously in the country since that time. This was difficult for some because of the long period of time between the start of 1982 and the implementation of the program in 1987. The most compelling documentation came from employment paycheck stubs retained by

applicants or provided by employers. Other acceptable documentation of residence included affidavits from church officials or nongovernmental organizations familiar with the applicant or employers that did not have official payroll records because they paid their workers off the books. At times, it was difficult for some applicants to obtain these affidavits. Schools, state and locally operated utilities, and other government agencies also played a smaller role by providing documents such as utility bills, school records, tax records, and affidavits that proved applicants were in the United States during the required time. Little evidence is available to indicate that states and local governments engaged in organized efforts to provide the documentation to demonstrate an applicant's presence in the country for the required time period. In addition, the federal reimbursement program for states and localities did not cover documentation. (See "Federal help for the states.")

To adjust to legal permanent resident status, applicants for phase two of the general legalization program of IRCA also had to prove they met English language, and U.S. history and civics requirements. To meet those requirements, an applicant could take the test or present documentation of high school or GED exam completion, evidence of more than one year of attendance at a state-accredited educational institution, or a "certificate of satisfactory pursuit" of 40 hours of coursework from a program approved by the Immigration and Naturalization Service. Documentation of eligibility relied heavily on records provided to applicants by public and private educational institutions.

Deferred Action for Childhood Arrivals

Applicants must provide evidence that they arrived in the United States before their 16th birthday and have resided continuously in the country since June 15, 2007. Applicants may use a variety of financial, medical, school, employment, or military records to prove they meet these requirements. Some of the documents to prove presence in the United States, such as school transcripts, must be obtained from state and local governments. Documents from local social service agencies or state-run medical clinics, and children's birth certificates may also be used. If applicants have ever been arrested, they must provide arrest records from local or state law enforcement or other records of criminal history, as well as disposition letters from a judge.

Applicants also must show documentation of current school enrollment or successful completion of high school or a GED program. The U.S. Citizenship and Immigration Services has created a short list of acceptable documents that can be used to prove eligibility: school transcripts, school acceptance letters, school registration records, letters from the school or program confirming attendance, report cards, official progress reports, or certificates of completion. These documents are often available only from state and local government entities.²⁴

Some school districts received a large number of requests for transcripts from DACA applicants. In 2012, it was estimated that as many as 100,000 unauthorized residents of California's Central Valley between the ages of 15 and 30 would qualify for the program.²⁵ In its first few months, the Tulare City School District in the San Joaquin Valley had close to 10 transcript requests per day. The Los Angeles Unified School District reported transcript request backlogs of 200 to 300 applicants a few months into the program.²⁶ On the East Coast, New York City estimated that as many as 50,000 to 60,000 residents would be eligible for the program and would need transcripts.²⁷

Some school districts established innovative responses to the increased requests:

- The New York Mayor's Office of Immigrant Affairs announced on Aug. 15, 2012, that it would coordinate efforts for city agencies to help identify and make accessible critical documents that would help potential DACA applicants prove length of residency. The office also provided public information about the application process.²⁸

- In the state of Washington, the Yakima School District planned to add temporary staff to fulfill documentation requests.²⁹
- The San Diego Unified School District created a new office to handle the requests and alleviate long lines at individual schools.³⁰
- The Los Angeles Unified School District, the second-largest public school system in the country, decided to provide transcripts from its backup data stored at its headquarters. This database records current and past students' academic histories and home addresses used at the time of enrollment.³¹ This approach reduced waiting times for transcript requests because all the residency information required could be obtained from one central location.
- Other districts, such as the Des Moines School District in Iowa, established websites to help immigrant students and families request and submit paperwork.³²



Education

Knowledge of the English language and U.S. history and civics has been a key requirement in past legalization efforts. Programs such as DACA and the legislative proposals to legalize unauthorized immigrants brought to the United States at a young age require that applicants reach a specified level of education in the country. In 1982 the Supreme Court ruled in *Plyler v. Doe* that states are required to provide free public K-12 education to all minors, regardless of immigration status. Furthermore, many public postsecondary institutions admit immigrants who may be eligible for legalization. In that way, states and localities play an important role in ensuring that applicants receive the education needed to qualify for legalization. Having good data about how many applicants may need education, where they live, and their current level of English proficiency is critical in planning and implementing this aspect of a legalization program.

Great Demand for English Instruction

The ability of states and localities to fulfill the demand for education would depend on the number of people requiring additional schooling to satisfy the eligibility requirements and the amount of time applicants have to obtain the necessary level of education. A 2007 report by The Migration Policy Institute estimates that about 6.4 million unauthorized immigrants would require English language instruction to meet requirements similar to those in the immigration bill passed by the Senate in 2013. Of these, the institute estimates that 350,000 are not literate in any language, meaning this population could require basic education before being able to take English language classes to meet this criteria for legal status.³³

Generally, the number of people with limited English proficiency in the United States has increased dramatically since 1990, and, in some parts of the country, the supply of English instruction has not kept up with demand.³⁴ A 2006 survey of 176 local providers in 16 states and 22 cities found that 57.4 percent said they had a waiting list. Many others chose not to maintain waiting lists because of the high demand.³⁵ A 2010 survey of 1,368 local adult education providers in 50 states and one territory reported that 72 percent had waiting lists and that both the length of the lists and their wait times had doubled since 2008.³⁶

Immigration Reform and Control Act

Under IRCA, immigrants who had already obtained provisional status through phase one of the general program and were applying for legal permanent resident status in phase two had to meet English language and U.S. civics requirements. They could fulfill these by passing one of four tests approved by the Immigration and Naturalization Service, presenting a high school or GED diploma, providing evidence of at least one year of attendance at a state-accredited educational institution, or completing 40 hours of an INS-approved study course at a public or private institution.³⁷ The last option was the most frequently used by legalization applicants.³⁸

In the late 1980s, there was great uncertainty about how many unauthorized immigrants lived in the United States, how many would be eligible for the program, and how many would actually apply and, therefore, what the states' responsibility would be for providing educational instruction. Furthermore, some educators claimed that the IRCA applicants had lower literacy levels than other English language learners, making instruction more challenging.³⁹ States and localities also were already experiencing rapidly increasing demand for English language education.⁴⁰ It is important to note that immigrants who obtained temporary status during phase one could apply for legal permanent resident status relatively quickly, meaning that states and localities had little time to prepare between enactment of the law and implementation of phase two. These factors made it difficult to design programs to meet the demands for educational instruction. Finally, states and localities interpreted the challenge differently: While some considered it to be a one-time effort to get applicants through phase two of the legalization process, others saw a broader opportunity to integrate immigrant communities into ongoing adult education programs.

In California, demand for English language instruction among the population eligible to adjust to legal permanent resident status greatly outstripped supply. Although state service providers expected increased need for English training associated with the new federal law, all service providers (Adult Schools⁴¹, community colleges, and community-based organizations) reported more demand from 1988 to 1989 than they had anticipated.⁴² Across the state, 1.1 million people were eligible for legal permanent resident status if they could enroll in education courses. The state had the capacity to serve all of these people, but services were not geographically distributed to reach everyone in need.⁴³

According to California Tomorrow, a nonprofit organization that assessed the adequacy of educational services for the state, approximately 37,000 people sought educational services in their home counties but were unable to get them there.⁴⁴ For example, between 1987 and 1990, an estimated 72 percent of the need was unmet in San Mateo (approximately 6,800 people unserved), and 47 percent of the need was unmet in San Bernardino County (more than 10,000 people unserved).⁴⁵

Deferred Action for Childhood Arrivals

To qualify for this program, individuals must have graduated from a U.S. high school, obtained a certificate of completion from high school, earned a GED diploma, or be "currently in school" on the date of application.⁴⁶ Because of the Supreme Court's *Plyler v. Doe* ruling, public primary and secondary schools are already providing educational services to most of those eligible for the program. According to the Migration Policy Institute, approximately 423,000 individuals between the ages of 15 and 30 have not yet met the education requirements, but might be eligible for DACA at some point in the future if they earn a GED diploma.⁴⁷ Another approximately 392,000 individuals between the ages of 5 and 14 would need to remain in school so they can qualify for DACA in the future; nearly half of these are between the ages of 12 and 14.⁴⁸ Although most DACA-eligible immigrants and those who may be eligible once they reach age 15 have been raised and educated in the United States, a percentage

of the eligible population is “limited English proficient” and may require additional English language instruction.

Several localities have initiated efforts to help people meet the educational requirements to obtain deferred action through DACA.⁴⁹ For example:

- On July 17, 2013, the New York City Council announced a plan to create additional adult education slots, with priority for unauthorized immigrants applying for DACA and those who must prove enrollment in programs to attain a high school or GED diploma.⁵⁰
- On Aug. 15, 2012, the date DACA took effect, Chicago’s mayor announced that a private “Dream Relief fund” had been created to offer scholarships for DACA-eligible youth to attend college and fulfill the requirements to obtain legal status and work authorization under the federal policy.⁵¹



Protecting immigrants from fraud

Immigrants are often targeted in fraudulent practices promising help obtaining legal immigration status. Historically, when the federal government has announced a legalization or immigration relief program—or even when rumors of a possible future legalization effort have circulated—certain practitioners have targeted noncitizens, promising them legal status for a fee or asking that they pay for legal representation even if no program exists. Any new legalization program likely will be accompanied by new fraudulent activities aimed at immigrant populations. Some states choose to enforce immigration fraud through general “unauthorized practice of law” statutes, while others regulate this type of fraud with laws specific to the practice of immigration law.

Among the concerns these laws have sought to address is making clear the differences between the services provided by notaries public or “notorios públicos” in other countries and in the United States. In some Latin American and European countries, notaries public have received the equivalent of a law license and are authorized to represent clients before the government. That is not consistently the case in the United States, and unscrupulous “notarios” who represent themselves as qualified to help immigrants receive legal status can permanently damage an immigrant’s case. (Appendix E provides an overview of state-level laws regulating the services that notaries public can advertise and provide.)

Most recently:

- California lawmakers passed two consumer protection laws in 2013. A.B. 35 makes clear that immigration consultants, attorneys, notaries public, and organizations accredited by the Board of Immigration Appeals are the only people or entities allowed to charge for services provided to DACA applicants. These individuals and organizations are also prohibited from “practices that amount to price gouging.” A.B. 1159 makes it a violation for attorneys to charge immigrants for services, or to accept any advance payment, related to a legalization program

before it is enacted by Congress. The law requires that contracts for legal services be in writing, and it prohibits nonattorneys from advertising themselves in any language as a notary public, notary, attorney, lawyer, or anything else that implies they are licensed attorneys.

- Chicago has worked to enforce existing ordinances that regulate the unauthorized practice of immigration law. The city's Department of Business Affairs and Consumer Protection released a report in March 2013 detailing the results of an investigation into immigration service providers. The department found that 44 percent of businesses visited by municipal inspectors were not in compliance with the ordinance regulating such providers. The city issued fines ranging from \$200 to \$10,000 per offense.⁵²

Federal help for the states

When Congress enacted the legalization provisions in 1986, lawmakers recognized that the program would have budget implications for states and localities. To help, they included the State Legalization Impact Assistance Grants, or SLIAG, program in the law.⁵³ This provided more than funding; it also provided states and localities with opportunities to coordinate their responses to legalization implementation. The law envisioned states as fiscal agents responsible for passing funds to state and local government agencies that delivered services. It did not grant states explicit oversight over the quality of implementation. However, even though implementation of the grant program at times proved problematic, the distribution of SLIAG funds provided an opportunity for states and localities to influence and customize the law's implementation within the states.

SLIAG was intended to reimburse states and localities for the costs of providing basic health, welfare, and educational services for the newly legalized. Those included English language and civics training needed to fulfill the requirements for becoming permanent residents.⁵⁴ Congress authorized and appropriated \$1 billion annually for four years for the program, and allowed the spending to take place over seven years from the date of enactment.⁵⁵

The federal Department of Health and Human Services was designated as the lead federal agency to implement the program. To ensure that the department did not have to coordinate with multiple state and local agencies individually, each state, regardless of the size of its eligible population, was required to designate an individual representing a state agency to serve as a Single Point of Contact. That person would interact with both the federal government and provider agencies.⁵⁶ A state agency also was designated to be the grantee and assist with coordination of state efforts. In some states, management was decentralized further, and local-level entities were placed in charge of coordinating local efforts.

- For example, in California, the Health and Welfare Agency was chosen by the governor in February 1987 to serve as the state point of contact, and the Department of Social Services within the Health and Welfare Agency was named as the grantee agency for disbursing the federal funds.⁵⁷ The Health and Welfare Agency then convened a working advisory group of state officials, legislative staff, representatives of local government immigrant agencies, and other stakeholders. This group met bimonthly to design and administer the legalization assistance grant program.⁵⁸ California delegated the authority to run most of its adult education programs to local school districts. The Los Angeles Unified School District named a deputy superintendent as its grant coordinator in August 1986, before the law was enacted. Because of this early preparation, the district was able to get its programs up and running earlier than many others across the country.⁵⁹
- In Washington, D.C., the executive director of the city's Office on Latino Affairs (a cabinet position) was chosen to be the point of contact; the grantee agency responsible for disbursement of funds was the Department of Human Services.⁶⁰

- In Florida, the state contact was the administrator of refugee programs, and the Department of Health and Rehabilitative Services was designated as the grantee.⁶¹
- In Texas, the executive director of the Health and Human Services Coordinating Council served as the point of contact; the council served as the grantee.⁶²

The number of agencies and entities involved in the legalization assistance grant program, and the extent to which it was centrally coordinated or decentralized, varied from state to state. Table 4 outlines the various state and local entities involved in implementation and the roles they may have played, depending on the state.

Regardless of how well the states were prepared and organized, challenges arose in implementing the program. These included:

- **Lack of data.** When the program was first implemented, states did not know how many immigrants would be eligible for legalization, how many would actually apply, their educational backgrounds, or their levels of need. That uncertainty made planning difficult.⁶³
- **Regulatory delays.** The federal Department of Health and Human Services did not release final regulations until March 4, 1988 (10 months later than expected).⁶⁴ The rules regarding reimbursement requirements were released the following October (18 months later than expected).⁶⁵ States could not request or receive reimbursements until 1989, nearly three years after the law was enacted. Some states with large eligible populations and the budgetary capacity provided their own start-up funds to ramp up adult education initiatives, assuming that they would eventually get the federal reimbursement. But states with small or unknown numbers of eligible immigrants often did not provide start-up funds, fearful the costs would not be recouped.⁶⁶ In these states, implementation of adult education programs was delayed. State and local agencies that had started implementation had to then modify their programs and budgets to comply with the final regulations published in 1989.⁶⁷
- **Documentation requirements.** To qualify for reimbursements for educational or public health services, states had to ensure that service providers (state or local entities or nongovernmental organizations) were complying with federal documentation requirements to make sure that recipients of SLIAG-funded services were eligible for these services. Some localities did not participate because they had policies that prohibited them from asking clients for their immigration status or from sharing that information with the federal government.⁶⁸
- **Limits on allowable activities.** States could not use SLIAG funds for outreach to the public.⁶⁹

SLIAG was intended to reimburse states and localities for the costs of providing basic health, welfare, and educational services for the newly legalized. Those included English language and civics training needed to fulfill the requirements for becoming permanent residents.

Table 4

The Roles of State and Local Agencies in State Legalization Impact Assistance Grants

| State or local agency or office | Possible roles in SLIAG implementation |
|--|---|
| Governor | Designate state Single Point of Contact and/or grantee, submit SLIAG applications to the federal government |
| Legislature | Designate state Single Point of Contact and/or grantee, review SLIAG plans, set policy or implementation priorities, approve budget, conduct oversight hearings |
| Department of Finance | Prepare state budget including funds for SLIAG expenditures |
| Lead agency | Prepare overall SLIAG plan, coordinate with federal government, coordinate statewide efforts |
| Grantee | Serve as “banker” for disbursing SLIAG funds |
| State Department of Education | Coordinate all educational activities; administer education SLIAG money to school districts, schools, and community-based organizations |
| State Departments of Social Services, Health, and Mental Health | Coordinate all health and social service activities, administer health and social service SLIAG money to appropriate agencies |
| Local school districts | Coordinate local SLIAG educational programs, administer education SLIAG money to individual schools, implement SLIAG educational programs |
| Local social services, health, and mental health agencies | Coordinate local SLIAG health and social service programs, implement SLIAG health and social service programs |

Source: Based on “Out of the Shadows: The IRCA/SLIAG Opportunity,” A Report to the California Postsecondary Education Commission by California Tomorrow, Commission Report 89-10 (May 1989).

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Conclusion

Previous and current experiences with legalization programs and examination of the roles played by states and localities in implementation can be instructive as Congress considers new legislation. Understanding the breadth of the roles and where implementation challenges can arise can inform the debate as the legislation, regulations, and program structure are crafted. In addition, states and localities can learn from earlier experiences and each other about how to prepare for new roles and responsibilities if such programs are enacted.

We have highlighted some of the major roles for states and localities. However, they could take on other functions, including coordinating state and local government agencies, coordinating with nongovernmental organizations, monitoring implementation, and assessing future needs of a newly legalized population. Of course, states and localities continue to be involved following initial implementation of a legalization program as they integrate this population into their communities. Future research will identify these responsibilities and detail their fiscal and economic impact.



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Appendix A

Over the past century, groups of people have lived in this country in violation of immigration laws or have otherwise been in need of relief from deportation. As a result, the government has made multiple efforts to grant some type of immigration relief to eligible individuals. Some of these have started with legislation passed by Congress, while others have been initiated by the administration. Some apply to groups of people, while others pertain to individuals. Some accord permanent legal status, some bestow temporary status, and others provide temporary relief that does not constitute a legal immigration status but instead affords protection from deportation.⁷⁰ The following table gives details about select legalization and immigration relief programs going back to the early 20th century.

Select Immigration Relief Programs

| Immigration relief program | Description | Beneficiaries |
|--|--|--|
| Registry of 1929 | Allowed certain unauthorized immigrants to register with the federal government and to adjust to legal permanent resident status if they had arrived before June 3, 1921, and continuously resided in the country since then. In 1940, Congress updated the registry date to July 1, 1924. The 1965 Immigration and Nationality Act updated the registry to June 30, 1948. IRCA then updated it to Jan. 1, 1972. | 170 who entered before July 1, 1924, adjusted to legal permanent resident status; 123 who entered from July 1, 1924, to June 28, 1940; and 72,146 who entered from June 29, 1940 to Jan. 1, 1972. [†] |
| Cuban Adjustment Act of 1966 | Allows any Cuban national admitted or paroled into the United States after Jan. 1, 1959, and physically present in the country for 2 years to adjust to legal permanent resident status. In 1976, the physical presence requirement changed to 1 year. The Cuban Migration Agreement of September 1994 required the United States to admit no fewer than 20,000 people from Cuba annually, not including the immediate relatives of U.S. citizens. | 1,014,962 adjusted to legal permanent resident status (1967-2012). [†] |
| Immigration Reform and Control Act of 1986: General legalization | Grants temporary and then legal permanent residence to unauthorized immigrants present in the United States before the Jan. 1, 1982, cutoff date. | 1,611,872 adjusted to legal permanent resident status (1990-2012). [‡] |
| Immigration Reform and Control Act of 1986: Special Agricultural Worker program | Allowed qualified unauthorized agricultural workers to adjust to permanent residence. | 1,093,057 adjusted to legal permanent resident status (1990-2012). [‡] |

| | | |
|---|---|---|
| Immigration Reform and Control Act of 1986: Cuban-Haitian Entrants program | Allowed qualified Cubans and Haitians who had entered the United States prior to Jan. 1, 1982, to adjust to legal permanent resident status. | 37,698 adjusted to legal permanent resident status (1987-present). [†] |
| Chinese Student Protection Act of 1992 | Allowed certain mainland Chinese who had arrived in the United States since April 11, 1990, to adjust to legal permanent resident status. | 53,104 adjusted to legal permanent resident status (1993-2012). [‡] |
| Nicaraguan Adjustment and Central American Relief Act of 1996 | Allowed certain nationals of Nicaragua, Cuba, Guatemala, El Salvador, and the former Soviet Union who had applied for asylum in the United States to adjust to legal permanent resident status. | 250,390 adjusted to legal permanent resident status (1998-2012). [§] |
| Haitian Refugee Immigration Fairness Act of 1998 | Established permanent resident status for Haitian nationals and their immediate families, who were paroled into the United States before 1996. | 30,759 adjusted to legal permanent resident status (2001-12). |
| Deferred Action for Childhood Arrivals, 2012* | Grants deferred removal action and work authorization to certain unauthorized individuals who arrived in the United States as children. | 521,815 provided temporary relief (2012-13). [#] |
| Parole of spouses, children, and parents of Armed Forces personnel, 2013* | Allows unauthorized immigrants living in the United States who are spouses, children, or parents of active duty military troops and veterans to remain in the country and move toward becoming permanent residents.** | No available data. |

* Initiated through administrative action. All other programs were created by statute.

† Donald Kerwin, "More Than IRCA: U.S. Legalization Programs and the Current Policy Debate," Migration Policy Institute (December 2010), 7-8.

‡ Department of Homeland Security, Office of Immigration Statistics, Table 2A. Applications for Legalization by State of Residence and IRCA Program, updated March 5, 2013; Department of Homeland Security, Office of Immigration Statistics, Table 4. Immigrants Admitted by Type and Selected Class of Admission: Fiscal Years 1986-2003 and Table 6. Persons Obtaining Legal Permanent Resident Status by Type and Major Class of Admission: Fiscal Years 2003-2012, accessed Nov. 1, 2013.

§ Department of Homeland Security, Office of Immigration Statistics, Humanitarian LPR Programs, personal communication of unpublished data, Nov. 1, 2013.

|| Department of Homeland Security, Office of Immigration Statistics, LPR Adjustments by Program 1986-2003 and 2003-2012.

U.S. Citizenship and Immigration Services, "Deferred Action for Childhood Arrivals Process Through Fiscal Year 2014, First Quarter" (Feb. 6, 2014), data through Dec. 31, 2013.

** Department of Homeland Security, Policy Memorandum 602-0091, Nov. 15, 2013.

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Appendix B

Eligibility Requirements for IRCA Legalization Programs and DACA

| State residence | Immigration Reform and Control Act of 1986 | | | Deferred Action for Childhood Arrivals |
|--|--|---|---|---|
| | General legalization | | Special Agricultural Worker program | |
| | Phase 1 (provisional status) | Phase 2 (legal permanent residence) | | |
| Application period | 12 months | After 18 months of provisional status, could apply within maximum of 42 months from date of receiving temporary residence | 18 months | ongoing |
| Residency and age requirements | Proof of unlawful presence in United States since Jan. 1, 1982 | Must have remained in United States (except for “brief, casual, and innocent” absences) | No | Must be under the age of 31 as of June 15, 2012, have come to the United States before one’s 16th birthday, and demonstrate continuous residence in the country since June 15, 2007. |
| Proof of work history | No | No | 60 days of agricultural work between May 1985 and May 1986 and residence in the United States for at least 6 months during each of those 12-month periods (group 1) or prove at least 90 days of seasonal agricultural work between May 1985 and May 1986 (group 2) | No |
| Language and education requirements | No | Proof of competency in English language and U.S. civics and history | No | Graduate or obtain a certificate of completion from high school or have a GED diploma, be an honorably discharged veteran of the U.S. armed forces, or be in school on the date of application. |
| Application fee | \$185 per adult and \$50 per child, with a family cap of \$420 | \$80 per person, with a family cap of \$240 | No | \$465 |

Sources: Susan González Baker, *The Cautious Welcome: The Legalization Programs of the Immigration Reform and Control Act* (Santa Monica, CA: RAND Corp. 1990, and Washington, D.C.: Urban Institute, 1990), 125; Department of Homeland Security, U.S. Citizenship and Immigration Services, “Consideration of Deferred Action for Childhood Arrivals Process FAQs,” updated Jan. 18, 2013.

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Appendix C

Immigrants Receiving Legal Permanent Resident Status Under the Immigration Reform and Control Act

| | Estimated eligible pre-1982 population for legalization* (in thousands) | Total receiving LPR status through the general legalization program† | Total receiving LPR status through the SAW program† | Total receiving LPR status† | Percent of national total receiving LPR status† |
|----------------------|---|--|---|-----------------------------|---|
| Total | 1,342-2,662 | 1,611,910 | 1,093,092 | 2,705,002 | 100.0% |
| Alabama | 4-7 | 558 | 1,201 | 1,759 | 0.1% |
| Alaska | 0-1 | 327 | 364 | 691 | 0.0% |
| Arizona | 16-32 | 26,534 | 38,897 | 65,431 | 2.4% |
| Arkansas | 3-5 | 731 | 1,898 | 2,629 | 0.1% |
| California | 685-1,374 | 882,779 | 556,487 | 1,439,266 | 53.2% |
| Colorado | 12-24 | 9,329 | 8,653 | 17,982 | 0.7% |
| Connecticut | 2-3 | 3,003 | 2,672 | 5,675 | 0.2% |
| Delaware | 0-1 | 261 | 909 | 1,170 | 0.0% |
| District of Columbia | 9-19 | 4,104 | 1,295 | 5,399 | 0.2% |
| Florida | 53-105 | 44,927 | 98,037 | 142,964 | 5.3% |
| Georgia | 8-17 | 6,635 | 16,023 | 22,658 | 0.8% |
| Guam | - | 234 | 17 | 251 | 0.0% |
| Hawaii | 1-3 | 1,153 | 883 | 2,036 | 0.1% |
| Idaho | 4-7 | 2,046 | 6,934 | 8,980 | 0.3% |
| Illinois | 88-174 | 110,719 | 33,376 | 144,095 | 5.3% |
| Indiana | 4-9 | 1,647 | 1,724 | 3,371 | 0.1% |
| Iowa | 2-3 | 739 | 1,461 | 2,200 | 0.1% |
| Kansas | 6-12 | 3,585 | 3,302 | 6,887 | 0.3% |
| Kentucky | 3-5 | 386 | 316 | 702 | 0.0% |
| Louisiana | 5-11 | 1,766 | 1,006 | 2,772 | 0.1% |

| | | | | | |
|-----------------------|---------|---------|---------|---------|-------|
| Maine | 0-1 | 71 | 108 | 179 | 0.0% |
| Maryland | 21-40 | 7,640 | 3,349 | 10,989 | 0.4% |
| Massachusetts | 10-18 | 9,098 | 7,775 | 16,873 | 0.6% |
| Michigan | 5-11 | 2,199 | 3,727 | 5,926 | 0.2% |
| Minnesota | 7-14 | 1,185 | 765 | 1,950 | 0.1% |
| Mississippi | 3-5 | 345 | 591 | 936 | 0.0% |
| Missouri | 4-9 | 1,212 | 735 | 1,947 | 0.1% |
| Montana | 0-1 | 84 | 332 | 416 | 0.0% |
| Nebraska | 3-5 | 1,064 | 1,898 | 2,962 | 0.1% |
| Nevada | 4-8 | 10,233 | 7,469 | 17,702 | 0.7% |
| New Hampshire | 0-1 | 286 | 285 | 571 | 0.0% |
| New Jersey | 17-27 | 26,499 | 13,918 | 40,417 | 1.5% |
| New Mexico | 9-19 | 14,488 | 11,130 | 25,618 | 0.9% |
| New York | 128-230 | 104,787 | 42,671 | 147,458 | 5.5% |
| North Carolina | 6-11 | 2,760 | 13,196 | 15,956 | 0.6% |
| North Dakota | 0-1 | 15 | 173 | 188 | 0.0% |
| Ohio | 5-9 | 1,444 | 1,136 | 2,580 | 0.1% |
| Oklahoma | 9-19 | 6,346 | 3,932 | 10,278 | 0.4% |
| Oregon | 11-22 | 3,934 | 20,034 | 23,968 | 0.9% |
| Pennsylvania | 4-6 | 2,782 | 5,707 | 8,489 | 0.3% |
| Puerto Rico | - | 3,262 | 4,751 | 8,013 | 0.3% |
| Rhode Island | 1-2 | 2,016 | 700 | 2,716 | 0.1% |
| South Carolina | 3-6 | 807 | 2,246 | 3,053 | 0.1% |
| South Dakota | 0-1 | 72 | 51 | 123 | 0.0% |
| Tennessee | 5-10 | 1,059 | 1,235 | 2,294 | 0.1% |
| Texas | 130-267 | 281,584 | 128,321 | 409,905 | 15.2% |
| Utah | 6-12 | 2,531 | 3,436 | 5,967 | 0.2% |
| Vermont | 0-1 | 38 | 35 | 73 | 0.0% |
| Virgin Islands | - | 687 | 240 | 927 | 0.0% |

| | | | | | |
|----------------------|-------|-------|--------|--------|------|
| Virginia | 24-49 | 9,135 | 8,144 | 17,279 | 0.6% |
| Washington | 15-29 | 9,231 | 24,331 | 33,562 | 1.2% |
| West Virginia | 0-1 | 121 | 247 | 368 | 0.0% |
| Wisconsin | 6-13 | 2,581 | 1,347 | 3,928 | 0.1% |
| Wyoming | 1-2 | 622 | 352 | 974 | 0.0% |
| Unknown | - | 229 | 3,270 | 3,499 | 0.1% |

* U.S. Immigration and Naturalization Service, Office of Plans and Analysis, "Estimated pre-1982 Population Eligible to Legalize, by State," Memorandum to Mark W. Everson, executive associate commissioner, CO 1239/C Oct. 31, 1986.

† Pew analysis of data from the U.S. Office of Immigration Statistics, Office of Immigration Statistics, Department of Homeland Security, personal communication, March 5, 2013, data as of Sept. 30, 2012.

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Appendix D

Growth of the Unauthorized Immigrant Population, 1990-2010

| State | 1990* | 2000* | 2010* | Change in unauthorized share of total state population, 1990-2010† (%) |
|----------------------|------------------|------------------|-------------------|--|
| United States | 3,525,000 | 8,375,000 | 11,200,000 | 2.2 |
| Alabama | 5,000 | 25,000 | 120,000 | 2.4 |
| Alaska | <5,000 | <10,000 | <10,000 | NA |
| Arizona | 90,000 | 300,000 | 400,000 | 3.8 |
| Arkansas | 5,000 | 30,000 | 55,000 | 1.7 |
| California | 1,500,000 | 2,300,000 | 2,550,000 | 1.8 |
| Colorado | 30,000 | 160,000 | 180,000 | 2.7 |
| Connecticut | 20,000 | 75,000 | 120,000 | 2.7 |
| Delaware | 5,000 | 15,000 | 25,000 | 2.0 |
| District of Columbia | 15,000 | 25,000 | 25,000 | 1.7 |
| Florida | 240,000 | 575,000 | 825,000 | 2.5 |
| Georgia | 35,000 | 250,000 | 425,000 | 3.8 |
| Hawaii | 5,000 | 25,000 | 40,000 | 2.5 |
| Idaho | 10,000 | 25,000 | 35,000 | 1.2 |
| Illinois | 200,000 | 475,000 | 525,000 | 2.3 |
| Indiana | 10,000 | 65,000 | 110,000 | 1.5 |
| Iowa | 5,000 | 25,000 | 75,000 | 2.3 |
| Kansas | 15,000 | 55,000 | 65,000 | 1.7 |
| Kentucky | 5,000 | 20,000 | 80,000 | 1.7 |
| Louisiana | 15,000 | 20,000 | 65,000 | 1.1 |
| Maine | <5,000 | <10,000 | <10,000 | NA |
| Maryland | 35,000 | 120,000 | 275,000 | 4.0 |
| Massachusetts | 55,000 | 150,000 | 160,000 | 1.5 |
| Michigan | 25,000 | 95,000 | 150,000 | 1.2 |
| Minnesota | 15,000 | 55,000 | 85,000 | 1.3 |
| Mississippi | 5,000 | 10,000 | 45,000 | 1.3 |
| Missouri | 10,000 | 30,000 | 55,000 | 0.7 |

| | | | | |
|-----------------------|---------|-----------|-----------|-----|
| Montana | <5,000 | <10,000 | <10,000 | NA |
| Nebraska | 5,000 | 30,000 | 45,000 | 2.1 |
| Nevada | 25,000 | 140,000 | 190,000 | 4.9 |
| New Hampshire | <5,000 | <10,000 | 15,000 | NA |
| New Jersey | 95,000 | 325,000 | 550,000 | 5.0 |
| New Mexico | 20,000 | 55,000 | 85,000 | 2.8 |
| New York | 350,000 | 725,000 | 625,000 | 1.3 |
| North Carolina | 25,000 | 210,000 | 325,000 | 3.0 |
| North Dakota | <5,000 | <10,000 | <10,000 | NA |
| Ohio | 10,000 | 55,000 | 100,000 | 0.8 |
| Oklahoma | 15,000 | 50,000 | 75,000 | 1.5 |
| Oregon | 25,000 | 110,000 | 160,000 | 3.3 |
| Pennsylvania | 25,000 | 85,000 | 160,000 | 1.0 |
| Rhode Island | 10,000 | 20,000 | 30,000 | 1.9 |
| South Carolina | 5,000 | 45,000 | 55,000 | 1.0 |
| South Dakota | <5,000 | <10,000 | <10,000 | NA |
| Tennessee | 10,000 | 50,000 | 140,000 | 2.0 |
| Texas | 450,000 | 1,100,000 | 1,650,000 | 3.9 |
| Utah | 15,000 | 65,000 | 110,000 | 3.1 |
| Vermont | <5,000 | <10,000 | <10,000 | NA |
| Virginia | 50,000 | 150,000 | 210,000 | 1.8 |
| Washington | 40,000 | 160,000 | 230,000 | 2.6 |
| West Virginia | <5,000 | <10,000 | <10,000 | NA |
| Wisconsin | 10,000 | 50,000 | 100,000 | 1.6 |
| Wyoming | <5,000 | <10,000 | <10,000 | NA |

* Jeffrey Passel and D'Vera Cohn, *Unauthorized Immigrant Population: National and State Trends, 2010*, Pew Research Center, Hispanic Trends Project (Feb. 1, 2011).

† Pew analysis of Pew Research Center and Census data: Change in unauthorized share of total state population is equal to the percentage point difference between the percent of the state total population that was unauthorized in 2010 and the percent of the state total population that was unauthorized in 1990. Source of total population, 1990, 2000: Historical Census Statistics on the Foreign-born Population of the United States: 1850-2000; source of total population, 2010: Eileen Patten, *Statistical Portrait of the Foreign-born Population in the United States, 2010*, Tables 11 and 12, Pew Research Center, Hispanic Trends Project (Feb. 21, 2012).

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Appendix E

Fraudulent immigration practices have been identified as a problem in many communities. One particular concern is “notarios públicos,” translated literally as “notaries public.” In some Latin American and European countries, notaries public have received the equivalent of a law license and are authorized to represent clients before the government. In the United States, unscrupulous “notarios” have represented themselves as qualified to help immigrants receive legal status and charge for their assistance. Legal assistance from an unauthorized or unqualified individual may permanently damage an immigrant’s immigration case.⁷¹ Traditionally, state laws regulating immigration services provided by notaries public include specific statutes prohibiting them from performing unique functions of an immigration attorney and the prohibition of public advertising that misrepresents one’s qualifications.

State Laws Regulating the Unauthorized Practice of Immigration Law and Notary Public Advertising

| State | Statute | Description |
|-------------|---|---|
| California | Calif. Bus. and Prof. Code §494.6 and §6103.7 | Prohibit attorneys from accepting advanced payments in anticipation of a federal immigration reform law. |
| California | Calif. Bus. and Prof. Code §22440-22449 | |
| Colorado | C.R.S.A. § 12-55-110.3 | |
| Connecticut | Conn. Gen. Stat. P.A. 13-127 § 1 | |
| Florida | Fla. Stat. Ann. § 454.23; Fla. Stat. Ann. § 117.05 | |
| Georgia | Ga. Code Ann. § 45-17-8.2 | |
| Illinois | 815 Ill. Comp. Stat. 505/2AA | |
| Indiana | Burns Ind. Code Ann. § 33-43-2-1; Ind. Code Ann. § 33-42-2-10 | |
| Iowa | Notarial Acts Chapter 1050 §9B | Regulate notary public advertising and prohibit notaries public or other unqualified persons from performing unique functions of an immigration attorney. |
| Maine | Me. Rev. Stat. Title 4, § 807; Me. Rev. Stat. Title 4, § 960; Me. Rev. Stat. Title 4, § 807-B | |
| Maryland* | Md. Business Occupations and Professions Code Ann. §10-601 | |
| Minnesota* | Minn. Stat. Ann. § 481.02; Minn. Stat. Ann. § 359.062; Minn. Stat. §325E.031 | |
| Michigan | Mich. Comp. Laws Ann. § 55.291; Mich. Comp. L. Ann. § 338.3451 et seq. | |
| Mississippi | Miss. Code. Ann. § 73-3-55; Miss. Code. Ann. § 25-33-25; Miss. Code. Ann. § 25-33-27 | |
| Nebraska | Neb. Rev. St. § 64-105.03 | |

| | | |
|-----------------------|--|--|
| New Jersey | N.J.S.A. 2C:21-31 | |
| New Mexico | N.M. Stat. Ann. § 14-12A-15 | |
| New York | New York Laws: General Business: (460-a-460-j) and §135-b, Exec L (2012) | |
| South Carolina | S.C. Code Ann. §40-83-30 | |
| Tennessee | Tenn. Code Ann. § 8-16-402 | |
| Utah | Utah Code Ann. § 46-1-11 | |
| Washington | Wash. Rev. Code §19.154.010-.902 | |
| North Dakota | N.D. Cent. Code, § 27-11-01; N.D. Cent. Code Ann § 44-06.1-23 | Prohibit a notary public from acting as an “immigration consultant” or an “expert in immigration matters.” |
| Arizona | A.R.S. § 12-2701 et seq | Prohibit notaries public and others from performing unique functions of an immigration attorney. |
| Oklahoma | 49 Okla. Stat. Ann. §6(B); §6.1 | |
| Oregon | ORS § 194.166 and Oregon 2013 Laws, Chapter 77 | |
| Arkansas | A.C.A. § 16-22-501, A.C.A. § 4-109-103 | Regulate notary public advertising of immigration services. |
| Kansas | K.S.A. § 21-3824; Kan. Stat. Ann. § 53-121 | |
| Nevada | Nev. Rev. Stat. Ann. § 7.285; Nev. Rev. Stat. Ann. § 240.085 | |
| North Carolina | 2005 North Carolina Laws S.L. 2005-391 (S.B. 671) (§10b-20 (I-k)) | |

* Maryland and Minnesota additionally mandate that notaries public sign written contracts with clients.

Source: Pew analysis of American Bar Association Commission on Immigration, National Conference of State Legislatures Immigration Database, 2009; Julianne Jaquith and Roxana Miller, “Notario Fraud Statutes by State Chart,” University of Virginia School of Law, Nov. 21, 2013.

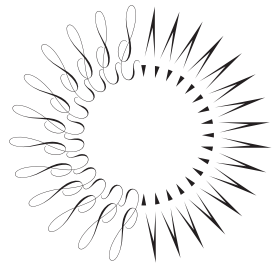
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